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Public place : Congress and the republican political tradition.

Joseph W. Martin

University of Massachusetts Amherst

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PUBLIC SPACE:
CONGRESS AND THE REPUBLICAN POLITICAL TRADITION

A Dissertation Presented

by

JOSEPH WILLIAM MARTIN

Submitted to the Graduate School of the
University of Massachusetts in partial fulfillment
of the requirements for the degree of

DOCTOR OF PHILOSOPHY

February 1984

Department of Political Science

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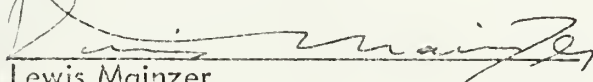
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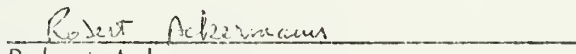
A Dissertation Submitted
In Partial Fulfillment of the Requirements
Of the Degree of Doctor of Philosophy


By
Joseph W. Martin,
Department of Political Science
University of Massachusetts, Amherst

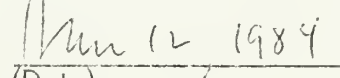
Approved as to Preparation and Content


Jerome King (Chairman)


Lewis Mainzer


Robert Ackermann


Glen Gordon (Chairman, Dept. of Political Sci.)


(Date) Nov 12 1989

DEDICATION:

Ruth Leone Reeder, 1891-1969

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I doubt that any intellectual effort has ever been crafted by someone working in absolute isolation, but it is particularly evident to me that most academic or scholarly efforts are really written by committees--even though a single person's name appears upon the title page. My own intellectual debts are numerous and it is a pleasure to acknowledge them.

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time and helped me considerably in my understanding of Aristotle's Politics and the political thought of Hannah Arendt.

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Finally, I would like to thank my mother, Alberta Martin, for providing me the leisure and opportunity to pursue this work. Her support has gone far beyond what parents usually extend to their children.

Joseph Martin
Amherst, Massachusetts
January, 1984

ABSTRACT

Public Space: Congress and the Republican Political Tradition

(February, 1984)

Joseph W. Martin, B.A., University of California, Berkeley

Ph.D., University of Massachusetts, Amherst

Directed by: Professor Jerome King

Public space is defined as a place ordained by law or custom to be the point of public assembly at which the political decisions taken by the governing authority are made. Such decisions are political because they are a necessary part of the general responsibility for the welfare of the whole society which has been consistently regarded as the special function of the political order. The assembled group represents the generality of society, speaks in its name and is concerned with society's attempt to articulate what is common or general to its life. The decisions taken in the public space are "public" when those who are to be affected by them have physical access to the place where they are made, and the privilege of either directly participating in or at least of observing the debates and political processes through which the decisions are taken.

The theory of the public space was outlined in its "pure" classical form in the Politics of Aristotle. This work lay behind the

actual practices of men and informed the state structures they designed at several points in subsequent European history. Both the theory and practice of state constitution based on a public space politics can be seen to constitute an Atlantic Republican tradition. The purpose of this dissertation is to explore ancient and modern articulations of Republican ideas, as theories and as practices, in order to develop a model through which the political processes of the contemporary United States Congress can be explored and evaluated.

The rules and procedures of Congress were drastically altered during the 1960s and 1970s. These changes profoundly affect the nature of the politics that takes place there. Professional students generally agree that the fundamental basis and range of Congressional power is subject to periodic shifts and that these can be better understood by analyzing the body diachronically. Further, they assert that while Congress serves special interests well, its national constituency is being ignored. Given our classical model and a summary of the history of Congress, can we determine whether it functions as a public space?

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C H A P T E R I

THE FAILURE OF CONGRESS: CRISIS IN PUBLIC SPACE POLITICS

We lived in a time of troubles, when the very torpor of our momentum let us see what monsters and what heroes we could make of ourselves in imagination--the monsters of our behaviour newly seen, and the heroes of our struggle with that conduct newly construed. Newly seen and newly construed: for not only did we live in a time of troubles, we lived also in a time when we were learning a whole set of techniques for finding--even creating--trouble: new ways of undermining personality and conviction and belief and human relation.

R.P. Blackmur

The Concept of Public Space

The following dissertation is an attempt to explore some of the philosophical and historical dimensions of what I call "public space" politics. Public space is defined as a place ordained by law or custom to be the point of assembly at which the political decisions taken by a governing authority are made. Such decisions are political because, in the words of Sheldon Wolin, "they are a necessary part of the general responsibility for the welfare of the whole society which has been consistently regarded as the special function of the political order."¹ The assembled group represents the generality of society, speaks in its name and is "concerned with society's attempt to articulate what is common or general to its life." The decisions taken in the public space are "public" when

those who are to be affected by them have physical access to the place where they are made, and the privilege of either directly participating in or at least of observing the debates and political processes through which the political decisions are taken. Hence this "space" of meeting often comes to have great symbolic significance, for it sets apart that association which is directed to the welfare of the whole from any lesser association, and so represents general or common, rather than particular goods. The activity which public space makes possible is an integrating activity, above and beyond the heterogeneity of the private sphere, in which a living reality of active collaboration for individuals comes into being precisely because the issues raised there affect everyone.

What "happens" in a public space is political action: an integration of diverse elements and interests through a dialogue between uncoerced participants about common issues or concerns such that a general consensus is created and its decisions enacted into policy. The concrete opportunity for political action saves the people from lethargy and inattention to public business, i.e., from lapsing into letting others take care of that business for them. No multiplication of fragmentary constituencies or partial interests will provide a substitute for a common public space open to all.

Theories of direct democracy stress that the relationship between the individual citizen and the public realm be unmediated.

Democracy means government literally by the social estate of the people, that is, not simply a government electively derived from the people, but a government actually consisting of all of the citizens. Nearly all business is conducted by the assembled multitude of citizens, and such theories thus describe a government of all over all. The public space at the heart of such a government must be large enough, then, to physically accommodate everyone who lives in the society and who has been granted the right to participate in deliberation and action.

Republic theories of government, on the other hand, are a logical consequence of the growth of large polities: once the city reaches a certain size it becomes impractical to frequently assemble all of the citizens to deliberate upon every matter of public importance. Hence arises the theory of the elective derivation of government from the people to representatives chosen by them. The public space persists as a constant element here; still seen as a necessary condition for the determination of the common good; still the central element in a political theory which associates the concepts of justice, participation and public life. But now, everyone in the society does not have equal access to the public space. Those who have access to its debates and political processes are generally accorded the label "representative" and receive the power to act politically for others through some kind of election or selection process. Historical constructions of the concepts "citizen" and

"representative" have been characterized by considerable fluidity as the following study will show, but one constant element seems to be this: although a person need not always be a representative to have citizen rights, representatives are drawn exclusively from the body of citizens. Debates in the republican tradition, then, center first on what criteria legitimately admit one to the represented group, second, on the proper nature of the relationship between representative and represented, and third, on the qualities that must be present in each of the participating individuals if the process is to work as intended. Behind all such discussions lies the common view that citizenship itself is not a right but a privilege restricted to qualified individuals on the basis of criteria established by the community.

Both democratic and republican versions of the public space politics are, ultimately derived from Greek conceptions and practices. At various times, each was brought into being by some of the ancient city-states that dotted the Hellenic sea coasts and countryside. From their practical experiments with such forms of government we have inherited many of our traditions and much of our vocabulary about politics.

For what has come to be known as the republican political tradition, the earliest and most important theory of politics is the politika of Aristotle,² which has come down to us in the form of two separate texts, the Nichomachean Ethics and the Politics. The former

deals with ethical questions involving individual arête and the ends of individual life; it is primarily concerned with the problems of living a "good life" insofar as that life is private and personal. The latter takes up similar questions but in the context of the political society and the role of the citizen; it inquires into the nature of the "good life" insofar as that life is lived and shared with others in the public realm, and insofar as its attainment can be established as an object of common action.

Though the influence of both of these texts on subsequent generations of scholars and political actors has been immeasurable, we shall concentrate primarily on the doctrine of "polity" or "mixed government" which is presented for the most part in the third and fourth books of the Politics. Here, more than anywhere else, we find the notions of a free citizenry actively participating in the power of government, and a doctrine of citizen equality and political ethics that merges private and common goods through the activity of collective participation in public affairs. This is not Aristotle's ideal form of government, nor is it by any means the only possible form of government that he considers, but it is the form that he claims to have the greatest practical efficacy for the organization of the majority of states and the majority of men. For Aristotle, the Polity is not the "ideal best" but the "practical best" form of government. The reading of Aristotle which follows emphasizes the theory of the polity at the expense of other possible schemes of

government, and while some may feel that I am in danger of making him a theorist of the polity--which he is not--it is this concept of the mixed government design which has served as the basic blueprint for countless succeeding political theories and revolutions.

In formulating the mixed government theory, Aristotle's question seems to have been as follows: "given the nature of men as they are--i.e., as history and our contemporary societies show them to be--what is the most effective formula for ordering the polis that we can find which will allow them to express the social diversity of human experience and interests, yet contain them in a political unity based upon common values, friendship and a shared public life?" This gives rise to ancillary questions: What is the role that values must play in the evolution and maintenance of a common way of life; how can the frictions of social inequality be minimized and the stability and daily functions of a shared way of life be maintained? Can we assure stability and the long continuance of our city in such a way that the end result will be of demonstrable positive benefit to every citizen in the polis? Can we arrange our affairs in such a way that not only will our material needs be taken care of, but also that decadence and luxury for the few at the expense of the many become impossible, and the highest potentialities of mankind thus nurtured and flourish here?

Aristotle's answer to the last questions seems to be a

qualified "yes" provided that some set of institutional arrangements be discovered which provides for broad participation in the daily search for answers. For Aristotle, such arrangements will evolve around a public assembly of legislating citizens who gather together in a public space. These citizens are the ones who make the law and change the law, and it is through a combination of education and the concrete experience of participation in politics that their emotional and intellectual support of the constitution and the public life of the polis are established and maintained. When citizens so gather at this center, important consequences follow. First, the public space provides a symbolic point of entry for the individual citizen into a common, public realm of shared experiences. This is set off absolutely from private, personal realms of human life, for the factors which impel the assemblage involve common concerns and common needs. Second, the gathering together of heterogeneous citizens, qua members of different and even opposed social classes makes it possible for them to mediate their differences through public discourse, to establish consensus through that dialogue, and hence to act collectively. Thus the public space provides individuals the opportunity for political action, and society the possibility of collective action. For a society must act, despite its internal conflicts, without breaking apart, and the only way it can do so without systematically overriding some interests is to incorporate them into the decisionmaking process--i.e., by making political actors out of every

citizen and insuring that his interests shall be articulated in the public dialogue.

In what follows, then, I hope it will become clear that the public space itself is the defining characteristic of any system of politics based upon collective participation of unlike citizens, and that having or not having access to it is what distinguishes citizens of polities from other members of society. We shall see that it is the citizens who emerge from the privatized background of social life to create and use the public space and to participate in public life. We shall also see that having access to the public space is what determines a citizen in fact and distinguishes him from a citizen in name. Such a citizen, of course, has power; and such a mode of political life offsets the centrifugal forces of social diversity by providing access to political power among them severally: as long as the various social forces are physically present within the public realm, political power is truly divided and shared. None can come to systematic and constant dominance over the others, and the public realm can become the crucible for whatever is common to all of those citizens.

We are trying to walk a fine line here. We are trying to emphasize the notion that political communities exist first as generalities and second as complex entities characterized by clashes of competing interests. As we shall see later, Aristotle's "polity" is a society riven by class conflict of such severity that unless some kind

of recognition and power are extended to each of the varying interests, civil strife and the breakdown of the whole will ensue. Since, for Aristotle, it is impossible for men to attain eudaimonia or happiness in a context of social breakdown, the causes of such breakdown must be anticipated in the structure of political institutions. Hence the centrality of the public space and the emphasis placed upon its integrative functions. This assumption is crucial to the establishment of even a working definition of what a public space may be, and it is logically prior to any examination of the kinds of politics that take place there, or of the nature of the issues to be considered there. Throughout the following dissertation, then, we will accept the following as an adequate definition of the fundamental problem in political life:

If one of the main functions of the political association is to render "public" judgments in those situations where the plans, aspirations, and claims of its members are in conflict; and if, at the same time, it is an association that desires to retain a sense of community among its members--if, in other words, it is to be not only a community of well-being but of belonging--then there must of necessity be some clearly defined procedures whereby the "opinions" of the membership may be incorporated into the decisions affecting that community.³

For Sheldon Wolin, opinion ceases to be exclusive and private and begins to become politically relevant at the moment it transcends the merely private concerns of the individual and can be related to a common problem. This in turn indicates that there is a special kind of rationality demanded of judgments whenever such judgments are to apply to the whole community. Such rationality should possess a

general character while not ignoring the actual tendencies of particular political forces "such as the attitudes and strategies of active social groups." This, of course, shifts our fundamental understanding of the political situation away from a mode of thought based upon abstract principles, for what we have to deal with is a multiplicity of perspectives upon a particular problem in a concrete historical moment. Hence, should we wish to base our policies upon the axiom that it is desirable to seek integrated and consensual solutions, we must persuade the participating citizenry to abandon as far as possible alternative principles or theories of politics that promote the interests of one segment of the social order at the expense of others. This is a kind of triumph of the particular moment over the general assessment in political life, and it is based on the realization that while philosophical elegance is unattainable in lived solutions, expediency and compromise are necessary if a genuinely common viewpoint is to emerge:

The reason is not simply that it is a good thing to formulate policies that will reflect a sensitivity to variations and differences throughout the society, but rather that a political society is simultaneously trying to act and to remain a community.⁴

These considerations permit us to see more clearly the connection between political decisions and political participation or citizenship. The political actions of diverse citizens contribute to the generality of decisions and simultaneously constitute methods for expressing the resident differences of the society. But this does

not solve the problem of action on the collective level, because no political decision can affect everyone who lives in the society in the same way, indeed, agreement about the inclusion or exclusion of particular items on a political agenda itself may be a bone of contention. Further, it is frequently the case that politics is concerned with both benefits and burdens and these, of necessity, must be based on some discriminatory scheme of classification. Thus, general agreements are often but necessary preludes to discrimination, and participation can be seen as the basic method for establishing agreements and political consensus about such distinctions.

In its political aspect, then, a community is not held together by truth but by consensus, and this carries with it a necessity that often causes modifications in both means and ends which differ from what an "objective" or purely technical judgment might dictate. Therefore,

This gives to political judgments a character different from that of a "true" philosophical or theological proposition. In large measure, a political judgment is usually "judicial" in quality; that is, for the most part it involves a judgment concerning conflicting claims, all of which possess a certain validity. As Aristotle shrewdly pointed out, there is no problem of political judgment when one claim alone is admitted to be valid and enthroned above all the rest. The result of this condition, however, is that the political association is replaced by the state of seige. But once the political association is defined as a compound of many diverse parts, and once it is allowed that these "parts" will have different opinions, interests, and claims, the politicalness of the judgment will depend on a sensitivity to diversities. A political judgment, in other words, is "true" when it is public, not public when it accords to some standard external to politics.⁵

What this does is to elevate procedure over substance and compromise over principle. It assumes that justice, if there be any such thing, is predicated of public rather than private affairs, and it entails that the outcome of public political processes cannot be prescribed in advance. If, after all, we knew what "justice" was, that is, if we could define justice as a particular distribution of resources, or as a set of institutional arrangements, or as something predicated of the individual psychologies of the members of the community, then we might be willing to beg the question of how it might be attained in order to be able to get there. Our starting position here will be, however, that not only are competing theoretical views of justice possible, but that a number of such competing theories will doubtless be scattered among the individual citizens of a given community. One takes a diversity of interests and views as given, then, and the problem of acting for the good of the whole as the desideratum. It is precisely because the concrete situation is constantly changing, and the interests of the parties involved varied and heterogeneous that we give priority to a kind of collective epistemology with respect to collective problems. We do not try to stipulate outcomes in advance--only to provide a "space" in which consensus can emerge.

Given these assumptions and our definition of the nature of a political judgment, it is clear that we are speaking of a political realm of collective decisionmaking that is secular and limited in its

scope. The matters to be considered in the public space are all and only those which involve the generality of society; they are taken up and considered by those whom the political community has decided are qualified to participate; the activities that take place in this public space therefore have a peculiar quality and a peculiar focus because only here is that business which affects the common interest considered, and only here are the compromises worked out that allow its carrying forward. Given these restrictions, it is not difficult to support the claim that political activity is an autonomous realm of action, that "political action" concerns something quite specific, and that the private beliefs and concerns of the various individuals who gather in the public space will not be proper items on its agenda. What we want to do here then, is to work our way through some of the philosophical and historical treatments of a conception of political life that explicitly denies the contemporary notion that "everything is political." At stake in this argument is the problem of participation: if everything is political, then we can point to no specific realm of collective life which has responsibility for ordering and regulating the others, and we shall find no kind of human activity or art peculiar or appropriate to such responsibility. If everything is political, then it is impossible to discover a realm of action from which anyone might be or has been excluded. Such a conception of the political threatens to homogenize the specifically political out of existence and sink it permanently beneath the waves

of "social" life.⁶

We shall return to some of these themes later. For now it is sufficient to let these general remarks stand for the basic notion of the public space, the kind of politics that takes place there, and the aims of purposes of that politics. Given this much, let us see if it is possible to outline the primary characteristics of a public space in general so that one might take up any given political arrangement and see whether it is organized around a public space or not. Following is a list of considerations, baldly and simply stated in full recognition that each requires a thesis of its own if all of its implications are to be spelled out.

- 1) The assembled body will be sovereign with respect to the common affairs of the polity, i.e., it will have the power to ensure that its decisions become policy.
- 2) The methods of its conduct will be collegial, i.e., power and authority will be vested equally in each of a number of colleagues.
- 3) The individuals assembled will engage in debate and dialogue, using language comprehensible to the general body. Any restrictions upon debate will be uniformly imposed.
- 4) The assembly will dispose of various items of business by majority vote, unless it agrees to different stipulations for special cases.
- 5) Exclusion or inclusion of items of business on the agenda will be determined by the members of the assembly at large, or through the agency of its own appointed magistrates or officers.

One feels something of a fool. These general stipulations open up a Pandora's box of political and philosophical problems. It

is absolutely impossible that the simple notion of a public space will not erupt into byzantine complexities as soon as it is set down either in a full-blown theory of political life or applied in a historical situation. The philosopher will seek to satisfy his curiosity about whether a public space exists or not by carefully delineating its formal characteristics and then matching them up with their possible treatments in various treatises on the subject. The historian will see the rough outlines of concepts battered beyond recognition by political accident and misconception as they are pushed and hauled by a body of desperate and excited men who, someplace, try somehow to get a larger society to see things their way with respect to institutional arrangements. If we would really explore what a public space might be, and make a realistic appraisal of its strengths and weaknesses, we need to combine the methods of the philosopher and the historian.

First, if the Aristotelian polity serves as the earliest example of the notion we wish to explore, it is by no means the only one. The idea of a publicly accessible political space in which the major decisions that affect the community at large are taken is at the heart of all republican forms of government. It was the spirit of this idea which animated the Roman Republic, the Florentine Republic of 1494, the Whig doctrines of Parliamentary supremacy of seventeenth century England and, finally, the Congress of the United States itself as it was conceived at Annapolis in 1787. Each of these, obviously,

presents us with a distinct cultural context and unique historical tradition.

Second, there is a sense in which we might say that the bodies of writing which formulated and explained this kind of government are simply theories, and that the notion of a public space is nothing more than an elaborate rationalist daydream unless it can somehow be brought to birth politically and given a life in the world. Hence, the plausibility of the notion of public space with respect to the actual practices of men is something that can only be studied and tested historically. What have men done with this theoretical notion in specific historical contexts? Here, I think, we shall see that the notion can mean little by itself no matter how thoroughly its theoretical underpinnings might be explored. What matters is that political theories, like great religions, are dependent upon specific contexts and the daily practices of the ways of life of the people who adopt and institutionalize them for their ultimate form and political issue. One could look, for example, at the various treatments Christianity has received in Madrid, in Rome, in Sao Paolo, in Kiev, or in Seol, to see that the actual working out of a single set of doctrines is subject to considerable local variation. Therefore, if we really want to know what the notion of a public space entails, we need to look not only at such theoretical formulations as have been provided by Aristotle and Machiavelli among others, but also at the practices to which these and other theories

have given birth. Once having done so, we can then raise the question whether this notion of an open space at the heart of things might find critical application with respect to the present conduct of the United States Congress.

Now there are a number of obvious logical and theoretical difficulties which arise almost in constant conjunction with the notion of a public space politics. All I can do here is allude to them briefly, and wait until the appropriate moment to develop them further.

The Distinction Between The Public and the Private

First we must confront the implications which our central notion has for the perennial clash between particular and general interests. What is being emphasized above all is that the primary function of the assembled group is to articulate what is common or general to the life of the community as a whole. Hence the group as a whole must be capable of making "political" judgments. Note that it is this integrative aspect of public space politics that sets political action apart from other kinds of human activity, and the realm of politics apart from the particularistic and heterogeneous array of concerns which the participants in the process bear with them as they enter the public space. Here we can see that any participant in such a political process must find himself in something of a bind: he must articulate his particular interests or lose the

game of power; he must defend and promote his separate, individual views or they will not emerge from the shadows of the private realm to enlighten the public realm; he must urge his particular interests forward as forcefully as possible in order to ensure that they will not go ignored or be systematically overridden. Such activity is necessary in order that the product of the deliberations be truly integrative. At the same time, however, he must know when to compromise or even to abandon his personal interests in order that the strength and vitality of the community be promoted. He must be genuinely capable of listening to others and of modifying his own views because he recognizes that no-one ever attains complete gratification if the consensus to be established is truly genuine. Much attention has been devoted to the problem of developing the kind of individual who will abandon particular interests at the right moment, and for many writers in the republican tradition, this capacity to find the balance between the particular and the general within themselves is an essential characteristic of the ideal political actor, and the one element which ensures that the public realm will always be that place where the art of politics is practiced and can flourish.

Aristotle presents us with the phronimos as the person who best combines the attributes needed by the political actor in the polity. Machiavelli discourses on the subject of virtu; the English of 1688 saw the problem of personal characteristics pri-

marily in terms of a "patriotism" that bowed neither to the king nor to popular opinion.⁷ The Americans upheld the notions of genius, ability and virtue.⁸ In all of these cases, it was recognized that the vitality and longevity of political institutions would be partly a function of the moral and psychological qualities of the individuals who vivified them. Why were such concerns so important? Why could it even be said, to take the language of modern social science for just a moment, that it might be the case that political institutions were the dependent variable and human psychology the primary thing? The answer lies in the word "corruption" in its old-fashioned sense. Political institutions, like all artifacts, are subject to the forces of time and decay. Republics are particularly fragile because they embody a genuine balance between the conflicting forces within society. If the participating individual were to fail to seek the common good, his logical alternative would be to promote his particular goods instead. Under these conditions, either one faction having private goods in common would come to dominate in the assembly, or the body would fail to arrive at the consensus necessary for action. Readers of the French press, for example, have known for six generations now that to read, "The disorder was at its height" as a description of the activities in the Chamber of Deputies is but a succinct rendering of the problem of legislative immobilisme. Therefore, whether the assembly came to be dominated by faction or paralyzed by self-interested heteroge-

neity, the integrative functions of the public space would be lost and the way opened for a transfer of power to political arrangements that would systematically favor one viewpoint or interest over the rest.⁹

Thus the institutional integrity of the public space qua institution rests upon the personal integrity of the citizens and their several capacities to abandon personal interest at the right moment in order to work together in the common interest. This bond between the public space and the citizen is so strong that they might be thought of as two sides of the same coin: the common interest will emerge only insofar as the participants genuinely work toward it.

At the same time, it may be possible to distinguish between issues which involve the common interest and those which do not. We could, for example, introduce

the sort of distinction C. Wright Mills draws in The Sociological Imagination, between "the personal troubles of milieu" and "the public issues of social structure." Personal troubles, Mills says, "occur within the character of the individual and . . . his immediate relations with others." So their "statement and resolution" properly lie with "the individual as a biographical entity and within the scope of his immediate milieu--the social setting that is directly open to his personal experience and to some extent his wilfull activity. A trouble is a private matter." Public issues of social structure, however, transcend "these local environments of the individual," and concern "the organization of many such milieux into the institutions of an historical society as a whole, with the ways in which various milieux overlap and interpenetrate to form the larger structure of social and historical life. An issue is a public matter."¹⁰

Perhaps we can best express the essence of the public-private distinction as follows: particular interests are predicated either of individuals or segments of the social order; general interests are those of the society as a whole. Particular interests are, for the most part, adequately dealt with in the private sphere, or among those groups or associations whose immediate concern they are. The public realm, again is that place where issues involving the whole are raised and dealt with. The political tension between the particular and the general, then, lies in the potential capacity that importunate citizens always have to claim that their "troubles" are really "issues" and then to trammel them into the public space and make them matters of public deliberation and policy. Where the line between them ought to be drawn, however, has historically been treated as a public issue and this has played havoc with the distinction. The twentieth century at least is showing us that it is possible that the citizens can use the public space for logrolling and tradeoffs with the result that public deliberations have come to be increasingly occupied with the consideration of "troubles" which are handled as though they were issues, in a constant round-robin of mutual gratification of particular needs. This development was nowhere anticipated by the ancients, so far as I can tell, and it seems that modern experience may be in the process of teaching us a brand new lesson about politics.

In any case, it was the awareness that the private and per-

sonal could erupt within the public space and displace consideration of public and common goods that drove Hannah Arendt to try to distinguish between the two realms so forcefully. She has much of importance to say about the basic concept of a public space and it is through her writings primarily that the notion has emerged in American political theory since the second world war. In Arendt's writings, the distinction between public and private, i.e., the distinction between public issues and private troubles, is complex, varied and subtle. A comprehensive treatment of these notions would take many pages, but her basic idea seems to be drawn from the simple fact that the public assembly itself is a unique form of association in human experience. If none of the concerns appropriate to private or lesser associations are brought before the public assembly, the line between issues and troubles can then be mapped out with relative ease. This at least is my understanding of her fundamental position though she nowhere explains it in these terms.¹¹

For Arendt the distinction between public and private corresponds to that between the household and the political realm that first emerged in ancient Greece.¹² The household was a pre-political realm, a necessary condition for citizenship, but always a means to a higher end. It was, by contrast, the public realm, i.e., the polis way of life, that set off the Greek from the barbarian and made a free and truly human way of life possible.¹³ In Arendt's reconstruction of Greek life, polis citizenship was a relationship of equality among

individuals who might be unequal with respect to either wealth or ability in the private sphere. This "equality" was a special artificially created equality of status as citizens. The polis guaranteed equality

not because all men were born or created equal, but on the contrary, because men were by nature . . . not equal. . . . Equality existed only in this specifically political realm, where men met one another as citizens and not as private persons.¹⁴

For Arendt, then, it is in the public space and there alone that men can encounter one another as equals and coexist in the realm of free speech and political action.

The Problem of Representation

If the distinction between the public and the private is one of the fundamental theoretical questions bound up with the notion of a public space, the problem of representation is the second. Representation in general has been justified on a host of theoretical grounds, and emerged historically in many times and many places. It presents us with something of a vexed question, however, because while it attempts to preserve the attributes of a genuine public space, it puts that space at one remove from the people themselves. Thus, theories of representation first try to justify the removal of the public space from direct access by all of the citizens, and second supply rationales for whatever particular form of representation is advocated, in order to show that the relationship between

the people and their representatives preserves a kind of mapping of the one upon the other.

Hannah Pitkin has provided one analysis of the problem in her Concept of Representation.¹⁵ Pitkin distinguishes between four elements which, in some way or other, have been combined in most theories of representation. First, formal representation is the transfer of authority to act in one's behalf, brought about through an institutional arrangement such as an election process. Second, descriptive representation takes as primary the question of the extent to which representatives reflect the characteristics of those they formally represent. Such characteristics as ethnic background, social class, age, place of residence, and occupation are considered important. According to this measure, a representative legislature should be an exact portrait, in miniature, of the people at large. Third, symbolic representation is less concerned with either the transfer of authority or a possible mapping of social characteristics than it is with the belief systems of the individuals involved: how is the representative perceived by his constituents? The crucial question here is, "do the represented believe in or have faith in their representative?" The fourth kind of representation taken up by Pitkin revolves around the now-ancient debate over the behavior of the representative once he reaches office: is he to act as a trustee or a delegate? When the representative enters the realm of political action, he carries

with him a complex set of relationships with those for whom he acts:

Representing here means acting in the interest of the represented, in a manner responsive to them. The representative must act independently; his action must involve discretion and judgment; he must be the one who acts. The represented must also be (conceived as) capable of independent action and judgment, not merely being taken care of. And, despite the resulting potential for conflict between representative and represented about what is to be done, that conflict must not normally take place. The representative must act in such a way that there is no conflict, or if it occurs an explanation is called for. He must not be found persistently at odds with the wishes of the represented without good reason in terms of their interest, and without a good explanation₁₆ of why their wishes are not in accord with their interest.

Other considerations flood in from other sources. The American colonists took up the delegate/trustee question in terms of the general relationship between the people as a whole and their legislature. While preserving the form of the basic question, they saw it as a matter of choice between "virtual" and "actual" representation. The English were in the habit of telling the colonists that, as British subjects, they were "virtually" represented in Parliament--i.e., that a man didn't have to be one's neighbor in order to represent one there. The Americans, finding themselves separated from England by a variety of geographical, political and social factors demanded that their representatives "actually" represent them, that is that they be able to hold them individually responsible for their actions. According to Gordon Wood, neither the debates which then took place throughout the colonies nor their ultimate resolution

in the institutions they founded at both state and national levels ever completely resolved the basic tension between the two approaches.

Republicanism

with its emphasis on devotion to the transcendent public good logically presumed a legislature in which the various groups in the society would realize "the necessary dependence and connection" each had upon the others. "Our situation requires their being firmly united in the same common cause" with "no schism in the body politic." And this kind of legislature presumed a particular sort of representation--"a house of disinterested men" who "would employ their whole time for the public good."¹⁷

At the same time, the colonists frequently put it forward that such a scheme of representation left rather more distance between the people and their agents in the legislature than their desires for "actual" representation would permit. Bernard Bailyn holds that they ultimately evolved a uniquely American theory of representation which attempted to ensure that "equal interest among the people should have equal interest in [the assembly]."

The result would be, if not a wholly original contribution to advanced thought, at least a reversion to a radical concept that had long since disappeared from the mainstream of English political theory. For such arguments led to a recovery and elaboration of conceptions of government by the active and continuous consent of the governed that had flourished briefly a century earlier, during the Commonwealth period, and had then faded during the Restoration . . . Where government was such an accurate mirror of the people, sensitively reflecting their desires and feelings, consent was a continuous, everyday process. In effect, the people were present through their representatives, and were themselves, step by step and point by point, acting in the conduct of public affairs. No longer merely an ultimate check on government, they were in some sense the government. Government had no separate existence apart from them; it was by the people as well as for the people; it gained its authority from their continuous con-

sent. The traditional sense, proclaimed by Blackstone no less than by Hobbes, that law was a command "prescribed by source superior and which the inferior is bound to obey"--such a sense of law as the declaration of a person or body existing independently above the subjects of law and imposing its will upon them, was brought into question by the developing notion of representation. Already in these years there were adumbrations of the sweeping diation James Wilson and others would make of Blackstone's definition of law, and of the view they would put in its place: the view that the binding power of law flowed from the continuous assent of the subjects of law; the view "that the only reason why a free and independent man was bound by human laws was this--that he bound himself."¹⁸

Unfortunately, the foregoing considerations do not even begin to exhaust the difficulties inherent in the concept of representation or the related issue of consent. How can we tell when the people "consent" to institutions let alone to their specific acts? When the citizens of Massachusetts Bay Colony began to debate the form of representation that would hold between themselves and their central government in Boston in 1774 and 1775, the question they wished to raise was one of apportionment: how were the commercial interests of the Boston merchants to be meshed with the agricultural interests of the farmers in the western part of the state? Convinced that representation must be "equal" and grounded in something more permanent than mere population, the citizens of western Massachusetts had held, since 1691, that every town, no matter how small, could send one representative to the legislature. Hence the question: were towns to be represented, or individuals? Some may see this as an illustration of the sort of question that

arises with respect to the problem of formal representation which we noted as the first of Pitkin's four elements. The point here is that once a general body of citizens moves to constitute an assembly that will act in its name, the question of the formal relations between the two will turn out to be political, and its disposition may result in the emergence of a particular interest within a representative system.¹⁹

To exhaustively treat of these and other questions would take us far afield. What counts here is that there is nothing simple about making the jump from direct democracy to representative government; that whenever this apparently elegant idea is interjected into the real world of politics, a host of very particular and specific complexities emerges, and that behind all theories of representative government, no matter how elegant or how publicly arrived at, the discerning student can discover a maze of pipes and wires and Rube Goldberg devices designed to confer upon the whole the illusion of harmonious function. Gordon Wood at one point refers to the whole representational process as a "fiction" which the Americans of the 1770s nearly exposed for themselves.²⁰ Whether this is true or false is not something we shall try to settle here. But the Massachusetts example shows that if the tension between the common and the particular is seen from the standpoint of geography, the fundamental dilemma can be stated, not in terms of a heterogeneity of diverse interests arranged against a common one, but of

centralism vs. localism. Unable to discover a formula for the ultimate resolution of the problem, the writings and speeches of Americans throughout the revolutionary period frequently show them reaching out to grasp both horns at once:

Submerge all particular and partial interests into the general good was still the common cry. James Winthrop was very daring and unusual indeed but very honest in 1787 when he impatiently retorted that "it is vain to tell us that we ought to overlook local interests," for no free government could disregard them. "No man when he enters into society does it from a view to promote the good of others, but he does it for his own good."²¹

Intellectual Origins of the Republican Tradition

At this point, let us return to the basic notion behind the concept of a public space: society is comprised of a heterogeneity of interests and views and it is the function of the political order, as representative in some sense of the whole, to integrate whatever centrifugal forces may be present into a consensus and so make political action possible. If such political action can come into being in the world, it will not habitually or regularly occur at the expense of one particular minority or class interest among the citizens. The writings of Plato, Aristotle and Thucydides all display, in various forms, the horrors and injustices that followed the utter domination of a polis by either its oligarchic or its democratic element. Plato sought to design a set of political arrangements that could make such political one-sidedness impossible, first in his Republic and later in The Laws. Similarly,

Aristotle, as suggested earlier proposed his theory of the polity or mixed form of government as a design for the state which would promote an end to civil strife by permanently embodying a compromise between the constantly warring class interests present there. We will review Aristotle's theory in detail below. What is important to note here is that the Greek experience taught the lesson that neither oligarchy nor democracy would result in the kind of vivere civile which would be the practically best possible for most men. The one suppressed political liberties and individual diversity, while the other made excellence impossible and encouraged the ignorant to pretend to an art of which they knew nothing. Asked for advice on how the demos might never lose power, Hesiod is said to have replied, "Cut off the tops of all the corn that grows above average height." The polity of Aristotle, then, is a "middle constitution" in which the middle class rules by serving as a balance of power between the two extremes.²² The political organization of the polity is simple compared to some of the mixed government designs that were to come later: the assembly is open to citizens drawn from all classes of society. From it, officers of the state are elected and serve terms of relatively short duration. Everything revolves around the assembly or gathering of citizens in the public space. The mix of diverse interests is established not by designating separate executive, judicial and legislative branches, but in the admissions criteria for the

assembly. In general, Aristotle's intention is to mix diverse social forces so that they may balance. Now it is common knowledge, or should be, that large assemblies of Athenian citizens exercised judicial functions outside of the assembly, and that the boule or council of four hundred carried out administrative and executive functions--but these institutions are not expressly treated in those books of the Politics which are directly concerned with the polity itself. Instead, what Aristotle does explicitly stress is that the polity is a mix or balance of virtue, wealth, and numbers, and then goes on to offer a variety of formulas through which it might be institutionally composed.²³ The constant element in any of these possible sets of institutional arrangements, however, is the mixture of social elements. To claims of different social classes, then, a mixed constitution either distributes political power or awards it entirely to the middle class, which in itself is a combination of rich and poor. In this recognition of a diversity of claims, political authority is divided and shared. Insofar as that authority is to be exercised by a sovereign assembly, we find that the Aristotelian polity is organized around a public space.

Now it is not our primary purpose here to perform an exercise in intellectual history by tracing the idea of a mixed constitution throughout the writings of various theorists in the Western tradition. Neither do we intend to exhaustively explore every instance in which it might be said that some significant variant of a republic or mixed

constitution came into being. We will ignore the political thought of Jean Bodin and we will ignore the Republic of Venice. Yet it is important, I think, to search out the constant elements in the basic idea as they have appeared in both theory and practice at selected moments so that we might determine, if possible, to what extent our present institutions embody the basic assumptions of that tradition of which they form a part. What we finally want to do is to discover a standard through which we might understand and evaluate the political activities and representative functions of the United States Congress. The reason for this is not difficult to state: the present United States is, by historical standards, an amazingly heterogeneous society. The political order, as we have claimed, has the potential to integrate diversity into political action such that a common interest can emerge. Our project is to see to what extent the public space of theory continues to serve as the open point of access for the diversity of interests and views presently at large here. But the standard cannot be derived simply from theory alone. Suppose that in selecting certain past republics for study, we find that in no case was a "pure" public space ever instituted? In that case it would be absurd, I think to castigate the present Congress for failing to comport itself as one.

The idea of the mixed government with the public space at its centre has exercised an incalculable influence on the Western tradition:

There is a tradition of thought on these matters of which the Politics formed part, but its role in that tradition is difficult to assess precisely because it is so vast and all-pervasive. The tradition in question may be referred back to Aristotle in nearly every respect, but (leaving aside the fact that certain decisive formulations of its doctrines were made by Plato before him) so many subsequent authors restated parts of it and were influential in their own ways that, especially under Renaissance conditions, it is hard to define with certainty the particular writer exerting authority at a particular point. We are, in short, confronted by the problems of interpreting a tradition of thought; but that tradition (which may almost be termed the tradition of mixed government) is Aristotelian, and the Politics, as well as forming the earliest and greatest full exposition of it, makes explicit so many of the implications which it might at one time or another contain that--apart from the enormous direct authority which the book exerted--it is worth rehearsing the theory of citizenship and polity which it contains in order to see what might (and did) result and what importance the theory might (and did) possess for intellects in the problem-situation of civic humanism.²⁴

That rehearsal will come in the next chapter. Meanwhile, Kurt Von Fritz has traced the influence of Aristotle's theory of the mixed constitution as it was embodied by Polybius, first to Cicero and later to St. Thomas. While Cicero was an important influence, widely and frequently acknowledged by the founders of the American republic, these two writers do not immediately concern us here. What does concern us, however, is Von Fritz' assertion about the influence of this theory upon Machiavelli:

Machiavelli, who, according to a very widely accepted opinion, stands on the threshold of modern political philosophy, in his Discorsi (Chapter VI) repeats several pages of Polybius' sixth book in a paraphrase sometimes approaching a literal translation without mentioning Polybius' name. From then on the theory in its Polybian form . . . remained an important thread in modern European political thought, a

development which in a way culminated in Montesquieu's De L'esprit des Lois.²⁵

Now in aiming ourselves at the Congress, it would be a pointless and fruitless exercise to trace out the various national and legal traditions which influenced the Founders of the American Republic. Pocock sees the dominant line running through Aristotle and Machiavelli.²⁶ Von Fritz, as we have just seen, holds that Polybius is a central figure. Felix Raab discovers Machiavelli exerting a strong but unfocused influence on the metaphysical and moral assumptions that underlay Tudor and later English conceptions of political authority and power.²⁷ Charles McIlwain worked his way laboriously through the lex publicam of Roman law and its spreading influence over the ius gentium of English common law, citing cases as he went, and found little modern authority for the English version of the mixed constitution outside that of Jean Bodin, and little ancient authority before the Roman period. Polybius is not mentioned.²⁸ Corrine Weston also holds that the theory of the mixed government was central to the entire Anglo-American political tradition, but traces its genealogy through yet a different route.²⁹ The contemporary student, seeking to understand the fundamental issues bound up in the theory is reluctant to enter the controversies of intellectual and legal historians about who was responsible for precisely which lines of influence and which lines of influence exerted the greater force. For the purposes of the following, however, it has been necessary to adopt a design, and that has been taken more or less intact from the more recent

scholarship of J.G.A. Pocock. It is Pocock who is most responsible for placing the U.S. Constitution in the mainstream of a political tradition which he traces back first to England, then to Machiavelli and ultimately to Aristotle. In looking for a plan about which to organize not only theories about the public space but historical attempts to implement one, Pocock's genealogy has its advantages: if one takes Aristotle, Machiavelli, the men who brought about the English Revolution of 1642 and, finally, the founders of the American Republic themselves, one will be able to read directly the thoughts of men who have actually lived during times when a public space was a known thing. Since part of the attempt to shed light on the modern Congress involves understanding the intellectual and political issues incorporated in its design, this seems to be a reasonable path to follow.

The Contemporary Congress

When we turn to the Congress, however, and start examining what the contemporary scholarship has to say about it, we discover that it is widely held to be failing in its duties. Again, the scholarship is voluminous and we must be content with a few sample comments here and more detailed analysis later. At bottom, most of the criticisms can be traced back to the assumption that Congress is somehow failing to make use of the public space which was its original raison d'etre. For many, the fact that the Congress has divided itself again and again into a set of competing internal institutions

means--whether they acknowledge this consciously or not--that it has made itself institutionally incapable of performing those acts of synthesis which are the essence of political judgments and the basis of consensus. Congress, it is held repeatedly, upholds special interests at the expense of investigating and acting upon questions of broad policy. This criticism appears someplace in the writings of nearly every one of its professional students.

What the bulk of the following more specific criticisms points out is that many of the problems which we have been discussing with reference to a public space and the conflict of social forces in general have in fact come to light over the course of the history and development of the United States Congress. In short, the Congress embodies the realm of human politics writ small, and he who finds himself curious about nearly any aspect of political life would do well to study it.

. . . In large part, the history of the House of Representatives has been a struggle to mold a coherent policymaking instrument out of a large disparate collectivity. It has been, one might say, a struggle of the general versus the particular, in which the particular seems the more powerful force.³⁰

The role of the particular in Congress has been institutionalized and strengthened through the emergence of an elaborate system of committees and subcommittees. As long as a hundred years ago, Woodrow Wilson decried these developments, claiming that the theatre of debate has permanently shifted from the floor of Congress to the comparative privacy of its committee rooms. Here, the representatives of the

American people concerned themselves primarily with private rather than public business. The House, when it finally did gather together as it occasionally did, for the most part simply ratified substantive decisions taken in its committee rooms.³¹ Both Wilson and James Sterling Young, by the way, have gone out of their ways to note that the accoustics in the House chamber are atrocious--hardly what one would expect of the architectural meeting place of an assembly the essential purpose of which is to engage in speech and dialogue.³² J. McIver Weatherford claims that the enactment of public ritual has replaced the substance of legislative work throughout most of the daily round of the average member of Congress.³³ David Mayhew finds that the "entrepreneurial member" has emerged with particular prominence since the reforms of the 1970s. This individual is primarily concerned with his own reputation and the activities of getting re-elected. Such individuals, of course, can be expected to uphold neither the institution of Congress nor the public business of which it was instituted to take charge.³⁴

Other critics find that the House is decentralized to the point of paralysis; that the party system, which once focused member energies on selected problems and promoted consensus when the time came to vote, has declined in power and been replaced by an endlessly shifting set of ad hoc caucuses comprised of entrepreneurial members, which promote no consistent program in the broad public interest. Others point out that leadership in the chamber is attainable only after years and years of service--thereby denying

the public the positive benefits of the insights of those in the prime of life and skewing the scheme of representation to favor the results of elections held long ago by an older generation. Finally, David Vogler points out the sheer range of particular issues upon which the contemporary member of Congress is called to exercise judgment:

The scope of these decisions is mind boggling. During the course of one day in June, 1969, the House discussed the following subjects: financing of airport facilities, disposal of surplus lead, the use of Defense Department facilities in making movies, aid to the arts, treatment of laboratory animals, creation of a national wildlife refuge, textile imports, Post Office salaries, chemical and biological warfare research, and patents and copyrights.³⁵

Vogler goes on to make the obvious point that such a number and variety of "issues" frequently puts legislators in the position of having to decide about questions of which they know little or nothing. He quotes two members:

"I have to vote on 150 different kinds of things every year--foreign aid, science, space, technical problems, and the Merchant Marine, and Lord knows what else. I can't possibly become an expert in all these fields."

"It's not uncommon for me to go [to] the floor with bells ringing, votes being taken, and it's on a bill or issue that I have never heard of before. I haven't the remotest idea of the issues involved. You've got to make up your mind; you can't vote "maybe" and you can't vote "present"--you don't want to. So you have to make a decision on the best basis you can."³⁶

Among the most important criticisms, however, is that in its inability to address the broad problems of public policy, Congress has repeatedly made unwarranted grants of power to the presidency. If this allegation turns out to be true, it should come as no surprise to

students of the republican tradition of government. The Americans of the revolutionary period in particular, advocated the Whig thesis that executive power would grow unchecked in the absence of a strong parliamentary counterforce.

Here, then, seems to be the problem. Congress specializes. It divides itself up into subunits for the purpose of coming to grips with specialized issues--"troubles" if you will. Its individual members are encouraged to be self-interested by both the structure of their daily occupations and the nature of their electoral ties to local constituencies. The influence of particular interests upon Congressional deliberations is enhanced by both these factors. Meanwhile, the growing independence of individual members makes it increasingly difficult for the leadership to facilitate the kinds of compromise and bargaining that are precursory to political consensus. Professional students of the body are nearly unanimous in holding that while able to serve particular issues extremely ably, Congress is unable to address the broad general issues which it ought to confront in its role as representative of a national constituency.

If this makes sense, then I think we will be able to use the classical traditions of public space politics to support the following claim: Congress has abandoned the use of its public space. Virtually nothing of importance takes place on the floor, and no political scientist in his right mind would expect to learn anything about the body by sitting in the gallery and following the debates there.

Everything of importance takes place in the caucuses and the committee and subcommittee rooms. The result is that Congress is institutionally incapable of making political judgments in the sense outlined earlier. What dominates its attention is private business; what rules the roost are special interests. And the institutional consequence of all this is that, especially since the 1930s, Congress has steadily allowed its power to ebb away to the executive, thus altering the balance of power in a mixed constitution. Now on the classical view, on Aristotle's view, the fundamental attribute of a morally bad state is that one section or interest of the social order comes to dominate the rest and orchestrate public affairs according to its own preferences.³⁷ The mixed constitution sought to make the emergence of such interests impossible by granting a role in the formation of general policy to each of the several interests actually present in society. When approaching matters of common concern, then, the many particular interests converged through a general public dialogue.

Now suppose a system in which matters concerning the common interest are not raised, but matters concerning special interests are handled with dispatch. In such a case, not one but a multiplicity of special interests constantly comes to the top of things one by one as it were and exerts dominant influence over its particular sphere of concerns. Once its interests are taken care of, it recedes to be replaced by another. Where we generally think of despotism as unshared power over the whole by a part, that power is usually con-

ceived as persisting over time. Suppose, instead, a temporarily unshared power, or an endless succession of moments of unshared power, in which the agent continually changes but the form persists. In such a case, the general interest is pushed out of the picture as surely as if it had been displaced by a single abiding interest. But now the general body discovers no dissatisfaction or pain because the constituent interests severally find that their most urgent requirements have been satisfied. All that goes begging is the national constituency. If this is, in fact, a fair representation of contemporary events, it makes sense to raise questions about the long term fate of the general order itself.

To explore the implications of these and other developments and the present state of the Congress, then, we will take a public space model of politics, briefly trace selected moments in its history in thought and action, inquire into the attributes of the citizens who were deemed necessary to sustain it and ask the following questions: First, is Congress organized around a public space in the traditional sense? Is it a legislative assembly as defined in the republican tradition? Second, does the contemporary member of Congress exercise the prerogatives and display the attributes of the traditional citizen of a republic? Does he have the personal and institutional powers that republics traditionally conferred upon their citizens? If the answers to these questions turn out to be "no," then we might make a brief foray into yet another question: what form of government now prevails in the United States?

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⁹See Pocock, 1975, for a comprehensive treatment of this argument and its implications.

¹⁰Hannah F. Pitkin, "Justice: On Relating Private and Public," paper presented to the Annual Meeting of the Conference for the Study of Political Thought, April 1979, pp. 10-11.

¹¹This is not the place to do a full-blown disquisition on Arendt. But there is a problem in her theory and it has to do with her conception of the "public." For Arendt, the public realm is the only place where men can be truly free and meet one another as equals. They enter that realm which makes decisions about common or general things possible. In that realm, they have particular psychological experiences that are impossible in any other realm of human life, experiences which integrate them and make them into real human beings--something that they can attain nowhere else. In order to so conduct themselves, they must be free of necessity, free of the private and free of the social. But if they are to be truly free of all of these things, then there is quite a range of possible concerns--concerns which have frequently appeared upon the agendas of legislatures throughout history--which they are not at all free to take up and consider. This constitutes a set of a priori limits upon political activity that is derived not from politics but based upon some standard external to it. Arendt's scheme would work in an actual

republic, then, only if all of the participants in the public debate shared her system of values and philosophical theories about the metaphysics of such a debate and about the purposes of the public space.

¹²Hannah Arendt, The Human Condition (New York: Doubleday Anchor Books, 1959), p. 28.

¹³*Ibid.*, p. 24.

¹⁴Hannah Arendt, On Revolution (New York: Viking Press, 1963), p. 23. For additional bibliography and discussion, see: Jean B. Elshtain, Public Man, Private Woman (Princeton: Princeton Univ. Press, 1981); J.G.A. Pocock, 1975, p. 550; John H. Schaar, "Legitimacy in the Modern State," in Philip Green and Sanford Levinson, eds., Power and Community: Dissenting Essays in Political Science, (New York: Vintage Books, 1970), pp. 276-327; Hannah F. Pitkin, 1979; George Kateb, Freedom and Worldliness in the Thought of Hannah Arendt, Paper presented at the Annual Meeting of the American Political Science Association, Chicago, September 1976.

¹⁵Hannah Pitkin, The Concept of Representation (Berkeley: Univ. of California Press, 1967).

¹⁶*Ibid.*, pp. 209-210.

¹⁷Gordon S. Wood, p. 179.

¹⁸Bernard Bailyn, The Ideological Origins of the American Revolution (Cambridge: Harvard University Press, 1967), pp. 172-174. On this same subject see: *passim*, pp. 160-175; Bailyn, The Origins of American Politics (New York: Vintage Books, 1967), pp. 83-84; 100; Gordon S. Wood, Creation, pp. 24-28; 173-181.

¹⁹J.R. Pole, Political Representation in England and the Origins of the American Republic (New York: St. Martin's Press, 1966), pp. 172-204.

²⁰Gordon S. Wood, p. 188.

²¹*Ibid.*, p. 196.

²²Ernest Barker, The Political Thought of Plato and Aristotle (London: Methuen, 1906), p. 472.

²³Barker, *Ibid.*, pp. 465, 480.

²⁴Pocock., 1975, p. 67.

²⁵Kurt Von Fritz, The Theory of the Mixed Constitution in Antiquity: A Critical Analysis of Polybius' Political Ideas (New York: Columbia University Press, 1954), p. vi.

²⁶Pocock, 1975.

²⁷Felix Raab, The English Face of Machiavelli: A Changing Interpretation, 1500-1700 (London: Routledge and Kegan Paul, 1964).

²⁸Charles Howard McIlwain, Constitutionalism Ancient and Modern (Ithaca, New York: Cornell University Press, 1947).

²⁹Corinne C. Weston, English Constitutional Theory and the House of Lords: 1556-1832 (London: Routledge and Kegan Paul, 1965).

³⁰Roger Davidson and Walter Oleszek, Congress Against Itself (Bloomington: Indiana University Press, 1977), p. 25.

³¹Woodrow Wilson, Congressional Government (Princeton: 1885; reprint ed., Gloucester, Mass.: Peter Smith, 1973), p. 70.

³²Wilson, *Ibid.*, pp. 86-87. James Sterling Young, The Washington Community, 1800-1828 (New York: Columbia Univ. Press, 1966), p. 45.

³³J. McIver Weatherford, Tribes on the Hill (New York: Rawson, Wade, 1981), pp. 206-209.

³⁴David Mayhew, Congress: The Electoral Connection (New Haven: Yale University Press, 1974).

³⁵David J. Vogler, The Politics of Congress (Boston: Allyn and Bacon, 1974), p. 90.

³⁶*Ibid.*

³⁷Barker, 1906, pp. 460, 470, 481-482; Pocock, 1975, p. 71.

CHAPTER II

THE REPUBLICAN POLITICAL TRADITION

I. Philosophical Background: Aristotle's Corpus

In laying bare the fundamental differences that separated Plato and Aristotle, Whitney Oates holds that that which ultimately distinguished them could have no rational basis, and uses a remark from Origen to illustrate his point:

Celsus has brought the reproach that the Christians make this demand . . . , "Don't examine or investigate, but believe." Origen admits the reproach in a way, by observing that few men have the time or the inclination for investigation. But, Origen goes on to say that the gentiles really do the same thing: "For it is not by waiting to hear the arguments of all the philosophers and of the different sects, and by learning how some may be upset and others established, that a man chooses to be a Stoic, or a follower of Plato or a Peripatetic, or an Epicurean . . . ; but it is by a certain unreasoning impulse (alogoi tini phora) though they will not admit the fact." One way to express the difference between Plato and Aristotle may be this: Whereas the alogos phora of Plato led him to feel the reality of the other-world and the illusion of phenomena, the alogos phora of Aristotle led him in the opposite direction.¹

Divergence is strikingly evident in their respective treatments of the political realm. The Republic envisioned a political and social unity conferred by the authority of the philosopher-king and derived in its turn from a vision of the Forms themselves. But the Politics occupied itself with the variety of existing modes of political life and explored not one but several possible solutions to the

fundamental problems of politics--solutions that found their genesis in history as well as metaphysics. The bond that finally unites the men of the Republic is that of knowledge; the common element in the life of Aristotelian political actors is that of citizenship. The former is true and unchanging, but there are many ways in which a person can be a citizen.

If we take the notions of unity and diversity as the fundamental motifs of the philosophies of Plato and Aristotle, we will have made a large step toward understanding the basic ethos of the political philosophy of the Stagirite: the emphasis is on diversity--diversity of political forms and diversity of individual experiences of political life.

There are two elements which, together with the political philosophy of Plato, form the necessary background for a reading of the Politics. First is Aristotle's emphasis on the multiplicity of being and heterogeneity of methods for studying it which clearly emerge as fundamental results of the multitude of studies that comprise his corpus as a whole. Second is the Greek city-state itself: the polis which in somewhat idealized form is the subject of his political theory. If Aristotle's metaphysical and logical treatises reflect a predisposition to discover multiplicity in all areas of formal study, this was undoubtedly reinforced for him by his political subject matter. When he turned to examine the variety of existing fourth-century city-state forms--each with its ruling divinity, peculiar customs and way of life, he also found an equal diversity of political

orders--each with its roots in historical and sociological factors that lay outside the political realm proper. Constitutions, unlike birds and syllogisms, could not be studied separate from their background conditions:

In tracing the constitution to social conditions, Aristotle gives explicit recognition to an important truth, which Plato had certainly not recognized with equal clearness, though the facts which pointed to it were familiar enough. The genesis of the constitution of a State was perhaps studied by Aristotle more closely and more successfully than it has been studied till recent times, for the "social contract" theory, so long dominant in political science, tended to disguise the circumstances under which a State comes by its constitution. The pictures drawn under its influence of a people meeting together and selecting its government, as a man might select a house or an article of furniture, were of course consciously ideal, but they obscure our recognition of the fact which Aristotle had long ago pointed out, that the constitution of a State has its roots in what moderns term its social system.²

It was ultimately political variety which was to become the subject of Aristotle's vast empirical studies of politics. The mixed-government theory of the polity, with its class structure, balance of institutions, active participating citizen and system of distributive justice based on property and merit reflect an attempt to unify and balance within a single political order all of the diverse forces and interests that characterize a city. As such, these forces can be seen as expressions of phenomena in the human world for which parallels can be found in logic and in nature. As but one of several alternative models of the "well-governed" state, the mixed government theory is simultaneously Aristotle's acknowledgment that political theory can only recommend, never prescribe, and that the plausibility of its

prescriptions rests on the extent to which it incorporates an understanding of the dilemmas of its era and of its audience.

Though one may regard Aristotle's works or their parts as stages in the unfolding chronology of his thought, written at different times and evincing a gradual but uninterrupted movement away from Plato³ or as constantly-revised notebooks which served him as lecture notes for students on different levels of understanding,⁴ the themes of equivocality and multiplicity constantly recur throughout them in ways that Plato could never have intended or permitted. A few examples should serve to illustrate this.

First, and perhaps most fundamentally, for Aristotle "being" (to on) is a manyness rather than a oneness.⁵ Further, even the student of being in its concrete particularity (ousia) eventually must face up to the equivocal nature of the essence of a particular substance⁶--neither immanent nor transcendent; always a combination of matter and form. Thus the basic "stuff" of things is multiple and, furthermore, the words we use to speak of them have multiple implications and uses. Second, then, is a claim about the language we use when we talk about the world. This is summed up by the observation he repeatedly makes that "'being', or 'is', or 'to be' is said in many ways." To say that a word has many uses is to say that it is used homonymously, and in Categories 1a1, Aristotle explains:

Things are said to be homonymous that have in common only a name; the definitions corresponding to the name are different. Thus, for example, both a dance and a sphere are balls. So the name of these two things is common to them both, but the definition that corresponds to the name is dif-

ferent. For if one gives an account of what it is for each of them to be a ball, one will give a separate definition for each.⁷

One can reasonably regard the homonymy of terms as a problem of language, or of perception or of ontology, but for our purposes what counts is that if, for Aristotle, "is" (einai) can signify existence, identity or predication⁸ we should beware of misunderstanding him by oversimplifying the implications of his terms or seeking out consistency where none is to be found. At many important points in Aristotle's philosophy, denying universality seems to be equivalent to asserting a multiplicity of senses, and it is important to bear this in mind, not only with reference to his efforts to develop a technical vocabulary of terms for a science of politics, but also as one attempts to make sense of his theory of political morality and justice. Failure to take homonymy into account is also a prominent feature at times in his criticisms of others.⁹

Professor Owen, for one, has explored Aristotle's use of terms as well as the techniques of investigation he developed to separate and distinguish them.¹⁰ For example, einai is not the only word with many uses: "one" and "good" are also members of a rootless family, ready to marry subjects from any category.¹¹ "Good" is a primary example of homonymy in Topics A(107a4-17). For Owen, Aristotle's comments on homonymy reveal basic patterns in his analysis of existence.

For that purpose it is enough to say that his later theories do not in the least entail the discarding of these patterns. His disclaimer in *Metaphysics* Γ is politic: he is announcing his own "general science of being qua being," and it was on the homonymy of "being" that he had earlier built his objec-

tion to any such enterprise. But . . . more important than these labels is the fact that his own theories were worked out wholly within the framework of those techniques on which the analysis that we have been reviewing here relies.¹²

A good example of the application of such basic techniques to politics is Aristotle's study of the different kinds of "democracy" in Book VI, Ch. 1-5 (1330bff) of the Politics. But language begins to slide into ontology as we go further. Not only is "being" multiple and "einai" said in many ways, but such diversity must be reflected back into our formal methods of study and theories of knowledge. Hence "being" must be studied in many ways if we are to understand it. To on must be broken up still further--beyond matter and form; beyond substance and attribute: we find that "it" becomes "they" and they, qua objects of knowledge, cannot be the subject-matter of a single, unified science of knowledge. Instead, for Aristotle our knowledge of "being" will be neither singular nor uniform but based on principles given through experience and peculiar to each subject.¹³ "Science" can and must be divided up, and the various sciences (epistemai) having different subject-matters, will necessarily differ from one-another in terms of both the methods to be followed and the possible precision or clarity of their results. In Topics 1,4, for example, Aristotle divides propositions into ethical, physical, and logical and thus suggests the standard Hellenistic division of philosophy into logic, physics, and ethics;¹⁴ elsewhere¹⁵ he introduces distinctions about the purposes and ends of knowledge itself, further complicating the study of being with a diversity of possible human reasons for

undertaking it. Hence, knowledge may be pursued for its own sake (theoria: theoretical knowledge), for the sake of actions (praxis: practical knowledge), or for the sake of making or producing something (poesis: productive knowledge).¹⁶

It is thus possible to follow Aristotle through several major distinctions: first, between the ends of knowledge; second among the various sciences; third, between kinds of propositions; fourth, among the multiple senses of terms such as einai, and last--though the significance of this does not emerge until we get to politics--between the realms of the necessary and the contingent. Given such distinctions as a background framework of techniques, it should come as no surprise to find that he has very firm convictions about the nature of political theory and its limits as a branch of knowledge. First, the study of politics and ethics (politika) can be located qua science, with some precision: it is a practical as distinguished from a theoretical or productive science. Its aim is to indicate what fine and just actions may be and to instruct us on the nature of virtue in general and to show us how to live well. Ultimately, its subject-matter is action, something that takes place in the realm of the contingent. Second, in its technical aspects, political science will have to account for a diversity of actual constitutions, explaining their appropriateness to different kinds of societies, their origins, and their place on scales as diverse as their degrees of conformity to a moral ideal on the one hand and their plausibility qua programs for actual cities on the other.¹⁷

How then are practical and theoretical sciences distinguished? Professor Newman pointed out four ways: in subject-matter; in aim or end; in the subjective faculty employed; and in scientific method or procedure. The subject-matter of Theoretic Science is either "things self-existent, unchangeable, and separable from matter" (i.e., the subject-matter of first philosophy), or "things unchangeable and separable from matter only in logical conception" (the subject-matter of Mathematics), or "things inseparable from matter and subject to change" (the subject-matter of Physics).¹⁸ What these things have in common, qua objects of knowledge for science, is that we make discoveries about what they, in fact, may be--we play no role in making them what they are. Newman shows that Aristotle draws a very firm line between these and the objects of a practical science:¹⁹

. . . both things done, which are the subject of politika, and "things produced" (ta prakta) have their originating principle (arche) outside themselves in an agent or producer. It is thus that "things done" lie as it were passively at the disposition of the agent, just as "things produced" do at the disposition of the producer. They are therefore said to be in our power (eph hamin), (Nic. Eth. 1112a31), and we are said to deliberate about things which "come to pass by our agency, but not always uniformly" (1112b3). The defective exactness of practical science is perhaps due to this subjection of "things done" to human arbitrium but it is still more due to the fact that practical science, being concerned with action, is concerned with particulars. . . .²⁰

If both the subject-matter of action and the agent himself can be changed, the purpose of practical science becomes that of promoting right action, i.e., not understanding in simple but bringing something into being. This makes a neat archetectonic fit with the Aristotelian doctrine that the soul (psyche) is divided into a rational and irra-

tional part, and that the rational part can be further separated into scientific and calculative aspects.²¹ Both tecna, the faculty which operates in productive science, and phronesis, the chief virtue of practical reason, belong to the calculative part. Different sciences, then, call for the exercise of different faculties of the soul, and the faculty that is concerned with moral action is the same as that which deals with the science of moral action.²²

Thus what we would call the subject or agent comes to have a central place in practical science, and through him (phronesis), or virtuous political action, comes into being. In order to act at all, phronesis must have a conception of moral virtue which it wishes to bring into being. That is, it has to adjust its choice of means to the end suggested by moral virtue. Thus phronesis needs to be completed by moral virtue, just as moral virtue is incomplete (because merely potential) without phronesis. In actual operation, phronesis conducts a whole process of deliberation, until it lights on the actual step which must be taken in order to attain the end it foresees. This is the last point reached in deliberation, the point at which action begins.²³

The crux of the methodological distinctions between practical and theoretical sciences, then, lies in the difference between their respective ends, i.e., between analysis and the bringing of something into being. Theoretic science takes a given fact or thing and inquires into its cause. Practical science, however, starts from an end to be attained, an artifact or a policy, and asks after the means

of attaining it--until it arrives at one which lies within the power of the inquirer to set into motion.²⁴ This means that practical sciences are always teleological and must, in a sense, borrow their modes of explanation and knowledge from the intentional structures of the activities of agents and producers. One important implication of this is that the student of politics--unlike the student of physics--will participate directly in the subject-matter of which he is a student. He cannot sit back and contemplate the forms of politics, or seek to inquire abstractly into the causes of political events--indeed, he cannot: if he is to develop the faculty through which he would learn about the political, he must do so in the context of political experience itself, and in active dialogue with the various agents who follow its pursuits. Aristotle's method of traveling around Hellas and gathering up 158 constitutions is a reflection of this.

This in turn gives rise to two additional factors which further distinguish theoretical from practical sciences. First, the degree of precision with which one can claim to know or understand the subject-matter of practical science is far less rigorous than is the case for Theoretical science. Second is the matter of experience: the life-experiences of the student of politika are crucial for both his knowledge of his subject-matter and the moral ends of action he envisions. First let us take up the matter of precision.

Our discussion will be adequate if it has as much clearness as the subject-matter admits of, for precision is not to be sought for alike in all discussions, any more than in all the products of the crafts. Now fine and just actions, which political science investigates, admit of much variety and

fluctuation of opinion, so that they may be thought to exist only by convention, and not by nature. And goods also give rise to a similar fluctuation because they bring harm to many people; for before now men have been undone by reason of their wealth, and others by reason of their courage. We must be content, then, in speaking of such subjects and with such premises to indicate the truth roughly and in outline, and in speaking about things which are only for the most part true and with premises of the same kind to reach conclusions that are no better. In the same spirit, therefore, should each type of statement be received; for it is the mark of an educated man to look for precision in each class of things just so far as the nature of the subject admits;²⁵

The final subject-matter of political science is reached through the exercise and development of phronesis, rather than through the theoretical reason we find in the logical works or the empirical observation which underlies Aristotle's studies of the natural world. But if the subject-matter of political science is the realm of free and just actions for individuals, and the search for practical solutions to the problem of finding the best life for most people in the polis, the issue of such enterprises for knowledge is immediately clouded by the reappearance of diversity within the audience to whom the student of politics addresses himself. First he encounters a diversity of opinion about which actions are truly fine and just; and then he discovers that no action can have consequences which will affect all people the same way. Since we have given up both Plato's metaphysics and epistemology, we have also had to relinquish our faith that political ends are knowable in any universal sense, i.e., that they are truly "objects" of knowledge. It is upon this that Aristotle rests his claim that the activities of moral and practical judgment (phronesis) are inescapably conventional in character and not handed

down by either nature or the gods. The only truths at which we can arrive are those "true for the most part," and he cautions, or rather begs the indulgence of, his reader to recognize the tentative nature of his arguments and receive them in the spirit with which they are offered.

As students of politics we will find that the precision of scientific simplicity²⁶ characteristic of the more exact sciences will be unattainable for us given the nature of our subject-matter and the peculiar relationship--part participant, part observer--that we have to it. In the second book of the Nicomachean Ethics Aristotle notes that "the agents themselves must in each case consider what is appropriate to the occasion, as happens also in the art of medicine or navigation."²⁷ The political theorist may advise, then, but he must do so in collaboration with those who may seek him out; he cannot prescribe absolutely in the manner that an engineer, for example, might determine for a city exactly where a wall should be placed and how it should be constructed. The theorist simply lacks this kind of knowledge, and politics is simply not something like walls, to be constructed according to specifiable rules. As a participant in the affairs of his time, the theorist can recommend and give reasons, but he lacks the authority to command which even the technical "expert," on occasion, can muster. The major reason for this lies in the problem of the political consequences that follow for the inexact nature of political knowledge.

Aristotle's reason for saying that precision beyond a certain degree is not to be expected in ethics is that (a) any general account is bound to obscure the variations in obligation that arise from the varieties of circumstance attending the performance of any action, while (b) the particular account will have to be so hedged with qualifications if it is to fit the particular case (as the general account does not), that it will inevitably lack the simplicity which Aristotle regards as characteristic of precision. . . . in a work which treats generally of ethics the discussion cannot fully reflect the complexity of the particular cases; and accordingly, Aristotle says that the account which he will present in the Nicomachean Ethics can only be a rough and outline account.²⁸

Ultimately, of course, one studies politics not in order to know but to do. It is not knowledge but action that counts. The problem that confronts both the student of politics and the man of affairs is that action always unfolds in a concrete particular situation, and no amount of general or theoretical or a priori knowledge can guide the agent at the moment he is called upon to decide. But this means that in speaking of political action, Aristotle is necessarily addressing a circumscribed audience: those who have already developed some insight into particulars by practicing the role of political agent; and we are told that those who are excessively dominated by emotion or young--either in years or in character--are not expected to be able to listen to reason in matters of conduct.²⁹ Newman says:

. . . particular judgments need to be correct, and this they can hardly be without experience: experience, though it arrives at a sort of Universal, never wanders far from particulars. It is evident, then, that the faculty which is concerned with practical science, is to be developed in life and in life only. Its beginning lies in habituation, its growth in experience. The young fall short in both respects. It is a faculty which cannot be passed from hand to hand.

Hence, though the sphere of Contingency (and this is the sphere of Practical and Productive Science) is that which is most amenable to human influence, the faculty which is concerned with it can only be produced by a circuitous and indirect process beginning in infancy--a slower process than that by which speculative virtue comes into being, though intellectual virtue generally, which includes speculative virtue no less than phronesis and tecna, is said to "stand in need of experience and time." (Eth. Nic. 1103a15.)³⁰

At the same time, however, politika differs from teckna qua practical science, precisely because the certainty of the outcomes of aims and projects undertaken through political action is by no means guaranteed. Politics is the realm of the uncertain and contingent, and entire social structures, not to mention individual projects are subsceptible to the vagaries of accident and the unpredictable: the state is not a creation of man which man can mold as he likes, and in this respect whoever seeks to manage state affairs has nothing like the artisan's control over his material.

"The accidental," says Zeller, "arises when a free or unfree activity directed to an end is brought by the influence of external circumstances to produce a result other than that end." Spontaneity is predicated in the case of such a disturbance generally, whether the activity disturbed and impeded is that of a being exercising Moral Choice or not; Fortune, only when the agent whose activity is thus modified, is a being exercising Moral Choice. . . .Chance plays round the ordered process of Nature, careless whether it mars or aids it or does neither. Its essential characteristic is to be without design and irregular; it is the negation of Intelligence and Nature . . .³¹

Thus we have a paradox: contingent (as opposed to necessary) matters are precisely those about which men can meaningfully deliberate and choose;³² yet spontaneity, fortune or accident--to say nothing of necessity and nature--may contribute to the frustration of

political action, and to the erosion of the confidence with which either the student of politics or the political actor can safely make pronouncements about possible future events. Thus the tentative nature of political theory: neither knowledge (the realm of the scholar) nor power (the realm of the political actor) can establish or maintain complete control over its subject-matter. To ask how political science is possible at all, then is to ask about the efficacy of its judgments upon the most appropriate presently apparent means required to bring about the future moral ends envisioned.³³ But this only serves to introduce a further problem--this time in the distinction between theoretical and practical science. For what emerges here is that the knowledge of the political theorist becomes contingent upon his apprehension of actual conditions, and insofar as this is a precondition of right recommendations to action, the "facts" of political life how somehow to be sneaked back into consideration and a practical dimension into theory. Therefore, the normative and descriptive elements of political theory are inseparable. Finally, we come up against the realization that even moral ends in general must be recommended to some one in particular, and that the possibility of their articulation in action entails the presence of an audience that finds the recommendations acceptable; further, that the means to attain such possible recommended ends can be realized in practice only through an active process of dialogue between those whose efforts will be required to bring them about and the theorist himself. Such com-

munication will depend upon shared values and the persuasive qualities of rhetoric as necessary conditions. The context for all such activities, of course, is provided by a space in which a dialogue is possible.³⁴

When all these things are taken together, they do not result in the clear and methodical exposition that characterizes, say, the *Posterior Analytics*: they result in the aporetic method of the *Politics*.³⁵ Richard Robinson, a recent translator of Aristotle, explains:

Aristotle is not writing out elementary principles of politics to be learned by docile and ignorant beginners. He is discussing difficulties felt by those who have already reflected on political matters. His word for such a difficulty or problem is "aporia." After indicating an aporia, he recites the considerations that have made it an aporia, including arguments both for and against a certain solution. These arguments may or may not have true premises, and their premises may or may not be strong grounds for their conclusion. Aristotle by no means personally recommends all the premises and inferences to which he draws your attention. He merely lays them before you as things to be considered in making up your mind. He believes it worth your while to know the arguments that have been given, or might be given, for and against a certain view. He does not write for those who only want dogmatic conclusions, which they can then adopt on the authority of Aristotle. Usually he does give his own conclusion; but sometimes he gives it in such a tentative form (for instance, as a question) that it is easy not to recognize it. In his aporetic discussions we are liable to mistake the beginning for his own view when it is not, and to mistake the end for a question when it is his own conclusion!³⁶

What we have here, then, in contrast to Plato's theories, is a far less idealistic and more trenchant view of human political life and the craft of the political theorist. Many important consequences follow upon the Aristotelian emphasis on the particular event and cri-

tique of the possibility for precise knowledge of political phenomena; not the least of these is pointed out by Sheldon Wolin:

Plato's distrust of political participation, then rested on a definite notion of what constituted a relevant source of political knowledge. If a case is to be made for popular participation, it would have to be shown that Plato's conception of political knowledge was unduly narrow and that a more adequate conception, one that would be more in keeping with the nature of political decisions, is directly connected to a more inclusive scheme of participation. The first thing to be noted is that Plato vastly exaggerated the degree of precision that political knowledge might attain. The belief that political science was a body of absolute knowledge was closely connected with the static character that Plato attributed to the objects of knowledge; there could be no valid knowledge where the objects of thought were unchanging and lacking in proportion. Conversely, because the true objects of thought were fixed, unchanging, and symmetrical, it was possible for thought to achieve an absolute precision and accuracy. But Plato's argument about the absolute character of political knowledge was not the consequence of a close examination of politics or of political situations, but was drawn from other fields.³⁷

Evans makes a similar argument, but reasons more closely, emphasizing the formal elements in the Platonic and Aristotelian epistemologies respectively. It will be remembered that one function of the Forms is to resolve difficulties in our understanding of things, and that reference to the different views that different persons may take of the same thing serves to help Plato distinguish between the expert and the inexpert. One way to see the contrast between Forms and particulars is to represent it as a distinction between context-free and context-dependent cases of concepts. For Plato, expert understanding or Knowledge is not something that varies from person to person and hence is not qualified by reference to its human subjects: the Forms are pure objects, and knowledge of them is always

the same regardless of the life-situation or experience of he who contemplates them. Both the nature of the philosopher-king and the object of his knowledge are unqualified by context. But Plato gradually became aware of this, and he raised a problem for himself in the Parmenides which, had he discovered it earlier, might have changed the form of the Republic. In the former work, he applied the principle of correlatives (that as sets of beliefs vary from person to person so does the world as it seems to each) to the relation between human faculties and their objects. For Evans, the arguments

. . . show that insofar as each person's faculty is subject to the qualification of being his, its object cannot be the object of the faculty: moreover, if some exercise of the faculty may be counted an unqualified exercise in virtue of its expertness, its object cannot be something other than the object of the faculty. In terms of the distinction between Forms and particulars, this makes it incoherent to assert, as Plato does in the Republic that the expert recognizes the distinctness of the two, while the inexpert confuses them.³⁸

The political consequence of this, which Aristotle refused, was to reduce all political conflicts to conflicts about knowledge.

If we reject Plato's distinction between expert and inexpert on the grounds that it cannot account for real differences in individual understanding and experience, who--if anyone--does Aristotle select as more likely to be superior in knowledge of political things? First, in politics we should praise not wise but practically wise men; for, in speaking of wise men, this is "why we say that they know things that are remarkable, admirable, difficult, divine, but useless; viz., because it is not human goods that they seek."³⁹

Practical wisdom on the other hand is concerned with things

human and things about which it is possible to deliberate; for we say this is above all the work of the phronimos to deliberate well, but no one deliberates about things invariable, nor about things which have not an end, and that a good that can be brought about by action. The man who is without qualification good at deliberating is the man who is capable of aiming in accordance with calculation at the best for man of things attainable by action.⁴⁰

The object of understanding for the phronimos is the city-state itself, a diverse collection of human aims and interests, of which he is a member and a citizen. But for much of what he knows he must rely upon the opinions of those whose lives and interests directly or indirectly constitute the political situation which is the context in which he acts. The role of opinion, which Plato had assigned to the epistemological nether realm of mere belief, becomes highly significant for Aristotle, whose phronimos can be seen to depend upon it as one of the chief means through which he acquires the experience that makes practical judgment possible. Of the various human sources of political knowledge, and this includes the many, few may measure up to Aristotle's standard of the ideal political actor, but each is indispensable to the buildup of the kind of experience prefigured in right action. As Wolin noted, Aristotle's theory of political knowledge, for all of its inherent imprecision, makes the validity of claims for wider political participation in decisionmaking for more plausible than Plato would allow, insofar as Aristotle too is offering us a political philosophy based on a concept of knowledge. Newman says,

. . .neither the end of man, nor the means to its attainment can be ascertained, at all events in detail, except by an

appeal to the judgement of the phronimos and also to the collective experience of men, sifted and corrected as we have seen that he sifts and corrects it. Even Plato does not think that a knowledge of the ideas will suffice to make his guardians good rulers without fifteen years of practical experience.^{41,42}

The Politics of Aristotle

The Polis is a Koinonia

As we turn to Aristotle's Politics, two preliminaries should be mentioned. First is Aristotle's teleological mode of explanation of the subject-matter of political science. This is a mode of explanation in terms of ends which assumes in its very structures that individuals and states alike have the capacity to move forward on the basis of consciously formulated aims or intentions about possible future arrangements and projects. Any existing state can be seen as the embodiment of a telos of collective aims. The second factor is his conception of the polis as a species of human association or koinonia. This notion is prior to his concepts of state and community.

In politics, as well as in personal life, then, the political actor manifests arete (excellence) when what he does fulfills the telos of his community: eudaimonia. This last term should not be understood in any of the usual modern senses of our English "happiness," which is often taken to indicate being in a state of satiated desire; or of physical comfort or spiritual joy; or even as designating a way of life free of constraints and full of leisure.

Rather, it indicates a state of psychological self-fulfillment and general well-being brought about through the successful accomplishment of meaningful activity. It is always associated with arete and with doing something well.⁴³ To put the matter very briefly, the true end of the state is the eudaimonia and highest personal development of the greatest possible number of its citizens consistent with their character as a people and the form of its constitution.

Now the polis itself is a species of association.⁴⁴ Aristotle says a species of koinonia. The term has no English equivalent and this makes it difficult for the Greekless reader to understand what Aristotle is getting at. Barker translates it variously as "community," "association," and even "aggregate"--vastly different words with substantively distinct and important implications for the political theorist. Robinson usually translates it as "community." The problem is that it means something different from and more than any of these: when Aristotle says "koinonia" he does not mean a community of the sort that Helen and Scott Nearing founded in Vermont after World War II; neither does he mean an association such as the American Association of Manufacturers. It implies a little more distance than is to be found in the one; considerably less utilitarianism than characterizes the other. The noun-form cognates of koinonia include "the political," "the common," "communication," "community," and (also) "sexual union."⁴⁵ Verb-form cognates can be translated "unite" or "unify." In general, it indicates a living together of men and a form of their common life. Newman says that all

koinoniae are held together by friendship⁴⁶ and uses the word in its plural form because, for the Greeks, it signified the household and the village as well as the polis. When Aristotle speaks of the political koinonia, then, he means that this particular koinonia is that human association which embraces and is superior not only to individuals but also to all lesser forms of koinoniae.⁴⁷ The household and the village are "like" the polis in the sense that all are characterized by friendship and a common life; but when Aristotle applies the term to the polis itself he is making a double move: he is first setting the polis above and beyond the lesser koinoniae as something which includes them; but he is also trying to express something of the bonds of warmth and personal connectedness that characterize them. The political koinonia thus expresses a unity in much the same way that the household and village express a unity of common experiences. Note, however, that the political koinonia should not be confused with the sort of unity to which Aristotle believed Plato had reduced the polis in the Republic. If we recall our earlier arguments about the heterogeneity of political communities, it should come as no surprise to find that the political koinonia of Aristotle is "home" for a diversity of human interests and experiences:

. . . the cause of the fallacy into which Plato falls must be held to be the wrong character of the premise on which he bases his argument [i.e., that the greatest possible unity of the whole polis is the supreme good. [1260b37-38.]] It is true that unity is to some extent necessary, alike in a household and a polis; but total unity is not. There is a point at which a polis, by advancing in unity, will cease to be a polis: there is another point, short of that, at which it may still remain a polis, but will nonetheless come near

to losing its essence, and will thus be a worse polis. It is as if you were to turn harmony into mere unison, or to reduce a theme to a single beat. The truth is that the polis, as has already been said, is an aggregate ([koinon] of many members; and education [paideia] is therefore the means of making it a community and giving it unity.⁴⁸

Thus a polis, as a specific kind of koinonia has neither the homogeneous unity of the Republic nor the haphazard and accidental union of human energies that might be conferred by geography, migrations or even common habits.⁴⁹ It is a unity in consciousness of varied and reciprocal parts that become unified through common language and an education which improves the character of the citizens,⁵⁰ and in democracies provides the basis for the decisions that political agents make together about their common mode of life itself. Individuals are here "made one by the pursuite of a common aim in which their nature, their habits, and their training lead them all to join."⁵¹ The polis unifies its parts without reducing them to uniformity, and when we conceive of it as a "whole"--which it is sometimes possible to do--then Aristotle holds that it exhibits the same formal relationships that wholes and parts are said to have throughout his wider corpus.⁵² Ernest Barker summarizes:

The terms "compound" (syntheton) and "whole" (holon) are both technical terms of Aristotle's philosophy. The "compound" is the genus: the "whole" is a species of that genus.

"Compounds," as defined by Grote in a Passage quoted in Newman's note, "are of two sorts--aggregates like a heap (mechanical) and aggregates like a syllable (organic)."

"Wholes" are aggregates of the second or organic kind: they have a form which gives them an organic unity, and an End or Final Cause which gives them a single purpose. The polis is such a "whole."⁵³

For Aristotle, "a part is not only a part of something other

than itself: it also belongs entirely to that other thing."⁵⁴ Given this primarily metaphysical relationship between parts and wholes, it is no great leap for Aristotle to assert that the destruction of a whole deprives the part of ousia or being. Since the specific nature of any part depends upon its function in relation to the whole, in the case of the polis the identity of the individual depends upon what he does within the koinonia. In no case can the individual be simultaneously self-complete (autarkis) and separate from the polis. Thus the very substance of individuality is conferred by the polis which stands in relation to him as a beginning or occasion of origin (archa).

Much the same account is given by Aristotle of the archa (et. 1060a), (archa gar to sunanairoun) or the ousia of a thing (De An. 412b18ff.). Severance from the Whole, in fact, involves the loss of the Form or ousia, and the loss of this involved "destruction" . . . but a hand destroyed is a hand unfitted to discharge the functions of a hand, or in other words is not a hand at all. Thus we may almost say that in Aristotle's view the polis is the ousia or archa of the individual.⁵⁵

The point is crucial first because it illuminates Aristotle's reason for thinking that it is possible for the political association to become a unity of diverse and heterogeneous elements without sacrificing the integrity of the elements; second, because it is the background for his later assertions that the interests of individuals must be subordinated to those of the whole in the event of a clash between them; third, it forms part of Aristotle's effort to strengthen the authority of the polis and promote a revival of civic virtue at a time when these things were coming under severe pressure. For him,

the polis does not come into being in opposition to or as a limitation upon man's natural rights: for man has no natural rights. Whatever rights he may have in fact are called into existence by the constitution, i.e., by men themselves.⁵⁶ While this last doctrine may give rise to disagreement, it is Aristotle's practical solution to the problem that he can find no transcendental argument for justice that would be good in all times and places.

Hence the ends of the city cannot be given by a a priori principle, but must come in a general way from the sociological and historical conditions which are such important elements of collective life itself. Following Newman's suggestion, then, if we pay as much heed to Aristotle's method as we do his doctrine, we will see that the phronimos, or man of practical wisdom, cannot himself be the final court of appeal about what the collectivity is to do. Instead, he must converse and engage in dialogue with the other inhabitants of his city if he is to attain the practical grasp of daily affairs which is a necessary condition for his exercise of arete. Given the express role that Aristotle grants the opinions of others in the marshalling of facts by the phronimos, it is difficult to conclude otherwise than that the ends of the state cannot be given in particular except through a process of intersubjective examination of available alternatives by the inhabitants of the city.⁵⁷ Therefore the "end" of the state is not a universal but subject to contingencies rooted in its historical conditions; and the power of the phronimos, as well as his personal arete is at least partly a consequence of his ability to

grasp what they tell him. Under some forms of constitution, such dialogues must take place in public because large numbers of people are expected to exercise the arete of the phronimos. And this is the form of constitution that we are specifically interested in. Hence the following emphasis upon the "polity"--that form of constitution which places an assembly of citizens at its head and a public space at its heart.

Aristotle distinguishes between higher, social functions and lower, necessary ones. The higher functions are peculiar to man and are seen as direct outgrowths of his capacities to reason, to speak and to choose. The lower functions are usually seen as necessary to all forms of life and not peculiar to man. The primary distributive function of any constitution--and what makes the association which it governs uniquely political and superior to all others--is to portion out those higher social activities and thereby to define the civic body by stipulating the rights of citizenship and rule.⁵⁸ According to Newman, this is the "only problem which the constitution has to solve."⁵⁹

Broadly speaking, Aristotle classifies constitutions in two ways, first, morally, i.e., according to whether the ruling person or group acts to further its own self interests or to seek the common good.⁶⁰ The second manner of classification is formal. It is a function of the economic origin of the ruling group. Constitutions differ in the ways they allot the right of ruling to different persons or groups of persons. Where power is held by those who act for the

common good, Aristotle calls the constitution "normal," or "healthy." On the other hand, constitutions which reflect or embody the political dominance of men seeking only personal gain are called "degenerate" forms, and of this sort he makes strong criticisms.⁶¹

Aristotle's scheme for the moral sortition of constitutions is based upon the principle that political rule, by virtue of its specific nature, is essentially for the benefit of the ruled.⁶² But not everyone who lives within the social order of the polis counts, and this is why a polis, qua political koinonia must be understood as something less than what we moderns would consider an entire city: strictly speaking, it incorporates the political or ruling element, but not those social strata that contribute exclusively to its material functions--i.e., those which are its "necessary conditions." These parts of the city are regulated by the political part, but the individuals who carry out such activities are not necessarily admitted to share political power.⁶³

Aristotle's attempt to formally classify politeia (constitutions) is made in terms of the social and economic heterogeneity of city life. Here he says that "The real ground of the difference between oligarchy (the rule of the few) and democracy (the rule of the many) is poverty and riches."⁶⁴ By this he means that the form of government he calls "democracy" is a government in which "the freemen and the poor are invested with the power of the state."⁶⁵ By an "oligarchy" he means a government dominated by the rich--whether they be a majority or a minority.⁶⁶ It is not the numerical value of

the ruling group that counts then, but its role in the economy of the city. Newman notes that here Aristotle applies the rule that a definition of a thing must not be built on a distinguishing feature which is only an accident and not present in every case:⁶⁷ power is economic, not numerical.

But something more is involved in these categories than economic position or status. All of the "poor" and "rich" in question here are also both "freemen" and "citizens" of the polis. The Greek polis had both rich and poor citizens,⁶⁸ who had been divided into four classes more than once--in theory by Plato in the Laws, and in practice by both Solon and Cleisthenes.⁶⁹ Sometimes the access to power granted to these economic classes varied, but not always. At other times, equality counted for far more than wealth.⁷⁰ What is important here, however, is that the polis was also the place of residence for vast numbers of non-citizens. These were concerned with the necessary functions of collective life and can be divided into three groups: "metics"--i.e., free foreigners and those natives who neither owned land nor appeared on the registry of some tribe or deme; slaves; and women. Of these three, none had any political rights or privileges in Aristotle's sense of "political," though individual metics often enjoyed great wealth and social status and carried primary responsibility for the commercial activities of city-states such as Athens. The point, then, is that it is citizenship and not wealth which confers political privileges on individuals for Aristotle and--under the best of conditions--arete not numbers, which confers moral legitimacy upon the policy directions which those citizens choose.

The Mixed Constitution

The "polity" as we saw earlier, stands as a mean between oligarchy and democracy and incorporates elements of each.⁷¹ The polity of Aristotle serves as the prism through which many of the major concepts entailed by any participatory model of politics are refracted. The issues raised here are to reappear again and again, whenever assembled groups of men gather together to debate and decide the central questions of political life; these are also the problems and concepts which seem to hold the center of attention of any group trying to decide, at the moment of founding, just how to institutionalize a central and permanent political role for decisionmaking by groups. I will try to show that all of the essential elements of the mixed government theory revolve around the central concept of a public space, that it is the sine qua non of this particular form of government. Most of Aristotle's theory of the polity appears in Books III and IV of the Politics.

Our primary interests here will be the citizen, the assembly, the distinction between public and private, and indirectly, the concepts of civic virtue and common good. It would be wonderful (but utopian) could we discuss such notions far from the dust and din of social stratification and class struggles, but this would be to omit phenomena essential to the plausibility of the entire discussion.

The practicality of Aristotle's approach to political life has long vexed those who are unhappy with the world that men have made for themselves thus far. Our discussion of the role that practical

experience must play in the search for solutions to the dilemmas of politics has shown that a real state, a workable state, cannot be formed, willy-nilly, from the imagination of the political theorist. Men and their cities are "already there" and their manner of being, as we come upon them in history, constitutes both the field and the horizon of any possible political action. Actual cities are bound to traditions and institutional practices that could only be wiped clean were it possible to simultaneously found a city in a desert and people it with individuals who had had no experience of existing political life. But we can never have it this way and Aristotle knows it. So he turns to the raw materials of history, and his characterization of Greek cities, while nowhere assembled in a single place runs through the Politics in a series of background themes that reminds the reader of Thucydides: the city of man is ridden with class antagonism, wars, demagogues and often civil strife; its population is diverse in background, interests and moral attainments, education, wealth and tastes; it may or may not be well-governed; its capacity to persist as an independent, sovereign political unit is often threatened. The problem is to discover a constitution that could really mold such centripetal forces into a koinonia held together through human affirmation rather than through force or fears--without striving to simply abolish such forces entirely. The diversity of social and class distinctions can neither be legislated nor imposed nor wished away in the long run, and its presence results in a continuous clash of interests that politics can contain but never absolutely resolve. We

shall see below that Aristotle does not think that human attempts to abolish class distinctions can succeed; that property can ever be absolutely equalized. That the two are tied together is a continuing theme throughout the Politics; but there are limits to the realm of things human over which man can exercise choice or rational control. For Aristotle, as I read him, social hierarchy is not a product of human choice but appears everywhere that men live together in communities. Thus it is a prepolitical phenomenon given by nature.⁷²

Further, when either the rich or the poor gain power in a city, the consequences for its civic virtue and political system are disastrous. The rich tend to extract vast quantities of wealth from the poor and push them into military service and other forms of servitude. The poor, on the other hand, divest the rich of their lands and funds and turn these over to a state which cannot really redistribute them, itself having been taken over by demagogues who want "rewards" and lavish public monuments to the memory of their deeds. Neither form of politics can attain even the practical level of justice that Aristotle seeks:⁷³ the one uses centralized power to determine the affairs of the city exclusively from the standpoint of its own self-interest, while the other takes an extreme of human political and social experience and attempts to remake the entire civic culture over in its own image. Each asserts its own interests entirely at the expense of those of the other side--creating either an oligarchy or a democracy as it will--and each is doomed to failure, precisely because the wants and needs and interests of the other side

are ineradicable and will assert themselves anew whenever there occurs a moment of weakness or hesitation among those who dominate.⁷⁴

Accordingly, the "polity" is an attempt to institutionalize a compromise; it expresses Aristotle's desire to find a mean between the extremes of domination by either the rich or the poor, for otherwise "the result is a state, not of freemen but only of slaves and masters."⁷⁵

The mean he seeks would institutionalize and preserve a balance of social and economic forces so that all of the citizens could "share in a common constitution."⁷⁶ The compromise contains two essential elements: first, power is to be shared by a large number of equal citizens drawn from all economic classes; second, the powers of the various classes themselves must be balanced, with none taking a dominant position over the others and none excluded.⁷⁷ This "solution," then, attempts to preserve the positive and communal elements implied by the notion of a political koinona without sacrificing awareness of and respect for the very real centrifugal forces unleashed by social heterogeneity and economic inequality. The balance is delicate: the citizen holds power; the rich are permitted neither to encroach nor to deceive; the power of the state itself is to be divided into three separate elements, each of which conducts its business publicly; and a strong middle class will act as a kind of balance of power and mediate between the other two. The result, it is claimed, will be a form of government that accurately reflects existing pre-political social conditions and, through its constitu-

tion, establishes a realm of political freedom where the diversity of citizens can act together under conditions of political equality.

At one point, Aristotle sets up an empirical test by which anyone can tell whether a mixed polis is "mixed" properly: the various parts of the city must support their constitution. And he does not mean tacit consent: he means that if offered the opportunity to change their constitution they would refuse:

A properly mixed "polity" should look as if it contained both democratic and oligarchical elements--and as if it contained neither. It should owe its stability to its own intrinsic strength, and not to external support; and its intrinsic strength should be derived from the fact, not that a majority are in favor of its continuance (that might well be the case with a poor constitution), but rather that there is no single section in all the state which would favor a change to a different constitution.⁷⁸

Suppose we think of the mixed constitution as a design intended to bring about two aims. First is that of establishing a political koinonia. Second is that of establishing a balance of power among the various forces actually present there. The one emphasizes the individual or subject of politics as he appears in the political arena, engages in political action with his friends and acquaintances, and exercises his liberties in the realm of freedom. The second is concerned with power and the brokerage role that politics must always play as it seeks to mediate between conflicting social and economic interests. If a constitution alone can create a realm of freedom in which men can truly act politically, the lesson here seems to be that most men are nonetheless formed outside that realm: they bring with them to the public space the concerns and interests that necessity

imposes, and these concerns will inevitably reappear as they exercise their lawmaking functions. Conceived in terms of the integrating function that the public space itself exerts upon its human elements, each of these two aspects of the "good" polity both defines and is defined in terms of it: the citizen is whoever has access to the public space; the subject-matter of the debates unfolded within it concerns necessity in a number of guises--but always as those citizens determine it to be. In Aristotle's "Ideal State" freedom and necessity are separate. Here, in the Practically best state, they appear together in the balance of social forces present, and are embodied in the agenda items with which they will deal.

Theory of the Citizen

The citizens of the polity are equal to one another in the political realm, regardless of what they may be outside it.⁷⁹ But Aristotle does not use the notion of equality in anything like our modern sense. Equality does not exist in nature; it is only possible in human affairs where it is always discussed with reference to something specific.⁸⁰ The primary characteristic with respect to which men are equal or unequal is, of course, property. Others include birth, honors, freedom, intelligence, productivity and even numbers. No such attribute, when present, justifies the elevation of individual or group to a sovereign position above the other citizens.⁸¹

This much should be simple and clear, but complexities follow

as usual. These are revealed to us as we turn to consider the mixed constitution as a structure or framework of institutions, and the problems raised by the division of power in government. The "mixed" constitution is not only mixed with respect to the class origins of the participants, it is also mixed with respect to divisions of power and authority. Most important, some citizens are going to hold office while others do not:

It is a principle which has to be observed among free and equal citizens. They cannot all rule simultaneously; they must therefore each have office for a year. . . or by some other order of succession for some other period. In this way it comes about that all are rulers. . . because justice requires the participation of all in office (whether office be a good thing or a bad). There is yet an imitation of it or an approximation to it, if equals retire from office in turn and are all, apart from their period of office, in the same position.⁸²

For Aristotle, there will not necessarily be a contradiction between equality and officeholding if three conditions are met. First, officeholders must be drawn from the pool of citizens at large. No non-citizen may hold power and there is no social distinction or rank which might automatically confer high office upon a few, or advance the interests of a subset of society. Second, there must be rapid turnover in office, for permanent rulers are dangerous.⁸³ Third, the general pool of citizens is the body that usually selects the officeholders and always reviews their performance at the end of their tenure in office.⁸⁴ For Aristotle, these conditions insure that the real sovereigns in the polity are the citizens at large, and not the officeholders.⁸⁵ Thus he prepares the ground for answering the

question that would naturally occur to any Greek well-educated enough to plow through a treatise on politics: can the many really decide important matters as well as the expert few?⁸⁶ After some discussion, Aristotle confers judgment in favor of the many, noting that what counts--in terms of justice--is the collective participation in decisions: it is the institutionalized powerholding group of citizens in general that ultimately holds and controls the office:

. . .for the officer is not the judge or the councillor or the assemblyman but the court (ekklesia) and the council (boule) and the demos; each of the persons mentioned is a part of these, I mean the councillor, the assemblyman and the judge. Hence it is just for the people to control greater matters since the demos and the boule and the ekklesia consist of many persons, the property qualifications of whom, taken all together, is greater than that of those who fill great offices individually or in small groups. Let these matters be determined in this way.⁸⁷

Sovereignty is thus firmly planted in collective assemblies and by this arrangement the citizen-body distributes office.⁸⁸

We may therefore draw the conclusion, which can be defended on many grounds, that all should share alike in a system of government under which they rule and are ruled by turns. In a society of peers equality means that all should have the same rights: and a constitution can hardly survive if it is founded on injustice [i.e., if it gives different rights to men who are of the same quality].⁸⁹

Now if all of the citizens have the same rights, and not all of them have the same duties at the same time, how are the various rights and duties and citizens to be divided? We know from the definition of a "citizen proper" given earlier that citizens exercise both "deliberative and judicial functions"--i.e., the duties of both legislators and judges. In addition, some are to hold office or--as

Barker translates, "magistracy." The fullest treatment of citizenship, then, must incorporate all of these elements. In Book IV, Ch. 14, Aristotle takes up the problem:

We may lay it down that there are three elements or powers in each constitution. . . . The first of the three is the deliberative element concerned with common affairs, and its proper constitution: the second is the element of the magistracies (and here it has to be settled what these magistracies are to be, what matters they are to control, and how their occupants are to be appointed). The third is the judicial element and the proper constitution of that element.⁹⁰

Properly speaking, the title "magistracy" should be reserved "for those which are charged with the duty of deliberating, deciding and giving orders."⁹¹ This power, different in but one respect from that of the citizen in general, is checked by the right of the assembly to appoint and to review, and there follows a technical discourse on the various methods according to which magistrates might be selected.⁹² These passages are important because they illustrate the variety of formal possibilities according to which magisterial power may be allotted and checked. The constant theme throughout it is this: some kind of executive is necessary, but an unchecked executive is a threat to popular sovereignty. How are the people to bring the executive into being yet not lose control over it, once it begins to command and they to obey?

For Aristotle, the political agent proper is not the faction or group but the citizen (politikos). He is the subject of both history and political life, and in the final analysis it is the unity of citizens that counts. Though citizens may be "partisans" of either

democratic or oligarchical parties, it is individuals and not groups who act within the public space, and individuals and not groups who finally experience the positive affections and bonds of loyalty which are essential to the political koinonia. Thus the concept of citizen occupies the central place in his theory of political action and is to his political theory what knowledge was for Plato and classes are for Marx. There is no such thing as citizen qua universal for Aristotle. At the most abstract level, citizens are the elements or parts of which the political koinonia is formally composed. As constitutions differ, so do definitions of citizenship.⁹³ What he is trying to determine at the beginning of Book III, however, is the concept of the citizen in a democracy, i.e., "a citizen proper."⁹⁴ He starts by sharply distinguishing those who are not to be included in the category from those who are: naturalized citizens, metics, those whose only civic entitlement is suing and being sued in the courts, children, and also the old (whose presence as a nuisance in the assembly was sometimes proverbial). Each of these carries burdens of one sort or another which justifies barring them from unqualified consideration for citizenship. Any of these might be included in the category "citizen"--i.e., a child of Greek citizen parents would grow up to exercise his privileges and duties as a citizen--but what counts is that none of these is totally free of some personal or legal hindrance to the exercise of the citizenship function.⁹⁵

What we have to define is the citizen in the strict and unqualified sense, who has no defect that has to be made good before he can bear the name. . . . The citizen in this strict

sense is best defined by the one criterion, "A man who shares in the administration of justice and the holding of office." . . . we have no one word to denote the factor common to the judge and the member of the assembly, or to describe the position held by both. Let us, in the interest of a clear analysis, call it "indeterminate office." On that basis we may lay it down that citizens are those who share in the holding of office as so defined.⁹⁶

There are a number of important things to note about this passage. First, Aristotle's notion of a citizen in the "unqualified" sense has its roots in some of the more basic categories of his logic. An object can be a "universal" in the sense that it is the common characteristic of a number of instances, and it is well to take note of the "universal" possibilities inherent in essentially complex concepts such as Friendship, Soul, Shape, Being, or Philosophy . . . or "Citizen." What Aristotle is seeking here, then, is to find a definition of citizenship consistent with the formal requirements of "definitions" he has offered elsewhere.⁹⁷ The concept he comes up with is one that will, under most normal constitutions, indicate that part of the population which actively participates in the political life of the city. The definition presented here, however, is that of the primary form of citizenship only, and it would be a misunderstanding to think that Aristotle holds that this is the only way a constitution can define a citizen.

Second, the citizen in this strict sense--hereafter to be called the "Aristotelian citizen"--is defined in terms for which empirical validation is possible: the student of any polis, wishing to know who actually plays the role of citizen, has merely to discover

who actually holds indeterminate office at a given time. The equation of officeholding and citizenship isolates that set of people who wield formally defined political power in a given society at a particular time and reveals much about the nature of what power and of the kind of individuals who hold it. Applied to the contemporary United States, for example, the notion could quickly point out for us who the "actual" citizen are.

Now, for the student of politics, the question, "Who actually does hold office?" may be sufficient to settle the question of citizenship. But the legislator faces a different sort of problem altogether. The question, "Who should be admitted to office, and why?" involves him suddenly in the immense area of individual attributes and capabilities. "Should office be open to just anybody?" The question is of utmost importance because the "good" of the entire city and the preservation of its health and way of life are at stake. Obviously, those who have not developed the moral and intellectual capabilities to serve the common good should be excluded and those who have developed these capacities should be admitted. But this does not move us forward very far: how are we to know and who is to decide?

What strikes the modern mind about the excluded categories of individuals is that neither birth nor residence per se are said to admit an individual to the status of citizen, and that citizenship turns out to be a privilege and not necessarily a birthright: membership in the ongoing life of the society does not automatically qualify the individual for citizenship in the political order.

Aristotle wants to admit those with "no defect that has to be made good . . ." and I suppose we could take the categories of lunatics and children as starting points from which to see what such defects might be in general. The citizen, after all, takes responsibility for the affairs of the city, and clearly must be able to assume responsibility for himself before being empowered to take responsibility for others. This means that he must be both economically and psychologically (i.e., morally) independent. He should be neither a minor nor a pauper; neither weak and subject to bribes, nor impressionable and subject to influence. Hence it appears that anyone who either cannot be held responsible for his own acts, or is in a position of servitude or retainership would be barred from the status and privileges of citizen. But "responsibility" so used casts a very wide conceptual net indeed. What does taking care of oneself mean? Is this actual or potential? Aristotle doesn't tell us. What he does tell us is that an individual can make claims to exercise the mandates of citizenship if and only if he fulfills the criteria stipulated by the constitution under which he lives.⁹⁸ This ultimately makes the concept "citizen" a matter of law in the sense that a constitution defines not only who the citizen may be, but also the basic institutions of political power and its distribution. Citizenship falls within the category of res adjudicata. But the obvious political consequence of this lies in the possible responses that those omitted might make to such formal, and necessarily exclusive definitions, either at the moment a constitution is being adopted or later. Formal or legal exclusivity of privilege

entails considerable control over the agenda of politics in any city. Indeed, one way to look at the history of class conflict is to see it as revolving around the admissions criteria for Aristotelian citizenship.

At this point, Aristotle passes from these questions of defining the citizen to examine the nature of his virtue. Suppose we put the question in the institutional form first: "Who should be admitted to the exercise of the privileges of the citizen?" and recognize that the "should" in this instance refers to something about the moral quality of an individual's performance rather than his suitability to perform certain necessary functions. In making such a shift, Aristotle broadens and deepens his inquiry considerably. He shows us that in human affairs functional and empirical definitions are insufficient to determine whether something is really what it appears to be. The dimensions of citizenship implied in its having an arete are necessary because in politics the right performance of duties cannot be determined separate from considerations of subjective intention and personal character, i.e., we have to know something about the reasons and attitudes that underlie the apparent activities of the individual. We know who the citizens are in the normal state because we can point out the officeholders. We know something about the attributes they need to fulfill their functions of participation in office. But there is a teleological dimension to political action and to the life of the city. The aim of both is not mere life but good life. Therefore, it is necessary to seriously raise questions

that surpass functional capabilities because these presuppose a certain kind of moral and intellectual individual background. To sum up the whole business, we can ask one kind of question about the external appearances of power and those who have access to it. This is empirical. We can ask another kind of question about the practical duties and difficulties that anyone exercising citizenship privileges must master. This is functional. And we can ask yet another kind of question about the motives for action, and this is psychological and moral. The question of motivation increases in importance as emphasis grows on the necessity of ruling for the common good. So, therefore, does the far more vexatious dilemma of personal attributes. Aristotle does not try to take Plato's escape route here and give power only to those who are absolutely good. This, as we have seen, imposes far too much unity on the city. Instead, he tries for a more open yet still restrictive definition of the citizen.

Hence the citizen of the polity is not the spoudaios⁹⁹ -i.e., the man who is good without qualification--though he does need some of his attributes. In addition, however, he needs the attributes of the phronimos and this means that he has to be practically effective in working with others to achieve jointly determined ends. The latter qualities are necessary if he is to embody practical wisdom, engage in political action and work for the common good.¹⁰⁰

Now the problem is that if the constitution is of a degenerate form, constructed for the satisfaction of private rather than common goods, there is no way that a person formally admissible to office can

both exercise the arete of phronesis and simultaneously be a "good" citizen. This is a celebrated dilemma in the politics and a direct result of Aristotle's refusal to lay down a priori principles of right action. A free people chooses its own constitution and in the process decides which among them are fit for citizenship. In the absence of a universal (or metaphysical) principle of justice, they are left with whatever wisdom they may embody at the time they choose a political order (i.e., a principle derived from historical experience). Thus the relationship that Aristotle finds between existing constitutions and their sociological background conditions.¹⁰¹

The active citizen, then, must hold office; he must not just be eligible for it, he must be able to hold it and exercise it. Thus we start with the definition of citizen as officeholder, move to the question of practical capacities and moral attributes, decide that we can't know too much about them in advance, and finally return to at least a general level of understanding of those practical things that he must be able to accomplish and manage: this expands upon what we can say positively about his individual capabilities;

. . .men hold in esteem the double capacity which consists in knowing both how to rule and how to obey, and they regard the excellence of a worthy citizen as consisting in a good exercise of this double capacity.¹⁰²

More discussion follows: there are different kinds of ruling and being ruled. The citizen need not learn how to be ruled insofar as this means the kind of being ruled associated with the performance of menial duties or manual labor or soldering.¹⁰³ On the other hand,

there is rule of the sort which is exercised over persons who are similar in birth to the ruler--i.e., by a person over his political equals. This latter the citizen should know, because "rule of this sort is what we call political rule."¹⁰⁴ Finally Aristotle concludes:

. . . ruler and ruled have indeed different excellences; but the fact remains that the good citizen must possess the knowledge and the capacity requisite for ruling as well as for being ruled, and the arete of a citizen may be defined as a knowledge of rule over free men from both points of view.¹⁰⁵

What is important here is the emphasis upon the kind of rule in question: the adjective "political" is specifically attached to this kind of rule, and it indicates something important about Aristotle's concept of the "political" life proper: it is a life where equals rule equals and are ruled in turn;¹⁰⁶ where power is shared; where no-one who holds power has not first learned to obey; where the sharing of power necessitates the taking of decisions in public. The exclusion of soldiers and manual laborers from citizenship here is done more with an eye to shedding light on the kinds of individual experience necessary to the personal development of political arete than it is to permanently exclude a particular group or social class.¹⁰⁷ The point under consideration here is positive, not negative: the nature of the realm of freedom and political action is such that it would be counterproductive for the individual citizen to spend much time learning how to perform technical operations involving objects and things.¹⁰⁸ Citizens work with equals and with ideas, and there is no a priori standard available to evaluate the outcome of

their actions as there is in the case of manual labor or technical or military operation. Hence, the formative experiences of those who are to live up to a citizen arete must take place in the midst of political activities and the realm of freedom; and this is the kind of rule which the ruler ought to learn while being ruled.

These considerations must not be allowed to obscure the fact that one of the fundamental attributes of the Aristotelian citizen is power, and that the granting of real power to large numbers of the lower classes is the cutting edge of the "compromise" that is the polity. Each side must give up something. There will be rulers, but they will not be the sort that have sovereign and ultimate authority. This is reserved for the assembly to which all the citizens have access and in which each has the potential to exercise a power far in excess of that implied by our contemporary voting rights. And note: if this power is not shared equally among the citizens, regardless of their class background, the demos is excluded and the polity is not mixed.

Public Space

The single most important difference between the social and economic realm on the one hand and the political realm on the other, is that the former is private for Aristotle, but the latter is public and shared. Economic decisions are made by and between individuals as they seek to promote their subjective ends. Political decisions involve common things and are taken by citizens who gather together in

public. What concerns individuals is private; what concerns the collective is public. The public space of the assembly, then, is the one institution that most requires equality for its practical efficacy as the forum in which the disparate elements of the polity are mixed and the public persona of the individual first given birth and nurtured. Thus, it serves as both the point of integration of diverse social forces and as the school for the citizens where the arts of ruling and being ruled are first practiced. More important, it makes equality possible by providing a common situation to all citizens, regardless of what they may be to one-another outside it in the private sphere.

Despite the division of government into three distinct elements, ekklesia, boule, and assembly, it is important to note that the citizens who assemble to deliberate and decide the most important issues for the polity¹⁰⁹ exercise sovereign power over the city. Furthermore, in Greek politics, the ekklesia often had 5000 people in attendance and the executive power or boule numbered 400 citizens during the 300 years of its greatest influence. But the most important thing to note is pointed out by Barker. The assembly could always override the other bodies:

The characteristic of ancient democracy was omnipotent sovereignty of that assembly. Primarily deliberative, it turned itself into an executive, at the expense of the council and magistrates; and it acted as a court of justice in great cases, while the Heliaea (which was only the assembly transformed) did the great bulk of judicial work. There was no supreme judicature . . . to check the action of the assembly.¹¹⁰

Again recall that Aristotle frequently praises the advantages in judgment and wisdom which the many have over the few.¹¹¹ Not only is a body of persons more likely to be free of corruption than a small group¹¹² but each member of the assembly participates in the process of deliberation and is equal to any other member. We saw earlier that phronesis is a virtue peculiar to the ruler, and that insofar as the member of the assembly has access to power and office, he must be said to embody it whenever he acts for the common good.¹¹³ The equality that holds among these individuals is an attribute of their membership in the political koinonia, and specifically a consequence of their admission to the status of citizen by the constitution of the city. They assemble together in a free place (eleutheria agora) "clear of all merchandise"¹¹⁴ and this will be a special area of the city set aside for this and for no other purpose.

Here is the public space which it is the central aim of the dissertation to explore: it is the heart of the free realm; a permanent embodiment of the commitment by the polis to government by assembled citizens. It is a "free place," not the market place, and thus set aside from other human activities either necessary or gainful. It symbolizes the freedom of the political thing.

We have seen that the form of constitution known as "polity" is Aristotle's attempt to outline the "practically best" scheme for organizing the polis. The assembly is the center of this scheme, and the equality of the citizens within it indicates something about the necessity for establishing equality among men in that area of collec-

tive life where its absence would likely result in an absolute breakdown of civic relations. That, and to leave the rest alone.

Aristotle generally thinks that the sources of economic inequality lie beyond our reach. They are given by phusis and not by nomos. But we are able to exercise a measure of influence upon the political inequalities that follow economic inequalities; not only is it possible to redress them, it is necessary if the stability essential to political life is to endure.

This, then, is the only place where the vivid inequalities of human life are left behind, and a rough and practical equality of participation brought into being. Such a notion of equality, of course, fails to square with the more modern conceptions of equality as some kind of universal principle, discoverable by reason and grounded in a natural law doctrine of fundamental human rights. In Aristotle's theory, equality emerges as a wholly conventional and somewhat fragile construct, something not given to men by nature at all, yet something nonetheless made possible through the concerted actions and decisions of men themselves. In a sense, then, the de facto inequality of history serves as the experiential background for the de jure equality of the public space. This is not the place to attempt thorough and complete studies of the difficulties involved in these questions. Suffice it to say that Aristotle proposes a remedy for the question of participation by the rich and the poor: both are required to come and participate. The poor should be paid for attending the assembly and the rich should be fined for non-attendance.¹¹⁵ As for the other,

deeper problem of how we might guarantee that individuals could be equal within the public space, Aristotle offers no real solution. When we finally push the question of equality beyond equality of access to decisionmaking, we draw a blank. Aristotle implies that to the question, "Equal with respect to what?" there can be but one possible answer: "Equal with respect to citizenship." Perhaps this is all that a polis or a political theorist can offer in the way of equality: the individual citizen is anyone who has legitimate standing to claim active membership in an association entailing formally stipulated privileges and duties. Within that association, however, all of the variety of human attitudes, interests and abilities can be expected to re-emerge.

What, exactly do citizens do in the public space and over what matters will they have jurisdiction? Aristotle gives us relatively little to go on here. Twice he tells us that they will "deliberate,"¹¹⁶ i.e.,

. . .the people in their gatherings have both a judicial and a deliberative capacity, and in both capacities they make decisions which are all concerned with particular matters, [i.e., the matters that cannot be decided, or properly decided by law.]¹¹⁷

The job of the people who assemble in the public space is twofold: first, they need to come to some agreement about ends, and then they need a second kind of agreement about the means they will undertake to realize those ends. But this does not exhaust the moment of deliberation. Action is necessary as well. Phronesis is a virtue conflated with action, and the phronimos is not a phronimos at all

unless he engages in political action. Therefore, his acts can become the "truths" of practical justice--that is, the justice that is sought and attainable in the polity, if and only if they serve the kinds of ends in question and are concretized qua acts. G.E.M. Anscomb explains the nature of the moral syllogism that connects subjective reason, intersubjective dialogue and political action:

. . . what does Aristotle mean by "practical truth?" He calls it the good working, or the work, of practical judgment; and practical judgment is judgment of the kind described, terminating in action. It is practical truth when the judgments involved in the formation of the "choice" leading to the action are all true; but the practical truth is not the truth of those judgments. For it is clearly that "truth in agreement with right desire (orexei)"[Ethics. 1139a30], which is spoken of as the good working or the work of practical intelligence. This is brought about--i.e., made true--by action (since the description of what [the citizen] does is made true by his doing it), provided that a man forms and executes a good "choice."¹¹⁸

Alisdair McIntyre argues the same point more succinctly, but in the language of syllogisms:

The form of the deliberation involved Aristotle characterizes as that of the practical syllogism. The major premise of such a syllogism is a principle of action to the effect that a certain sort of thing is good form, befits, satisfies a certain class of person. The minor premise is a statement, warranted by perception, that here is some of whatever it is; and the conclusion is the action.¹¹⁹

These analyses are helpful for our understanding of deliberation on the level of the subject. Newman takes it from the standpoint of the assembly as a whole and the succession of issues with which it must deal:

All may be said to share in deliberative authority, (1) if all do so successively (i.e., by relays) on almost all subjects, and the subjects on which all deliberate collectively

are very few, so that the powers of the collective gathering of all the citizens is small, and deliberative work falls for the most part either to relays of citizens, the magistrates taking no part in it, or to a council of magistrates to which all the citizens are admitted by relays; (2) if all deliberate collectively on a considerable number of subjects, and magistrates elected or taken by lot from all deliberate on the rest; (3) if all deliberate collectively on a considerable number of subjects, and magistrates deliberate on the rest taken by lot (from all?) in all cases in which the nature of the office does not make it essential that its holders shall be skilled persons, and consequently that it shall be filled by election (from all?); (4) if all deliberate collectively about all subjects and the magistrates merely make preliminary inquiries. But if to pantas Boulesthai kai peri apanton is democratic (1298a9ff), are the second and third modes really democratic?¹²⁰

Such at least are the approaches of philosophers and Greek scholars to the problem of deliberation: they delve into the Ethica Nicomachea and attempt to discover the connections between right reason, deliberation, and other-regarding actions which Aristotle discusses there. While I think such approaches are useful, and shed great light upon what Aristotle would like to see happening in the public space, the historian and the reader of Thucydides cannot help but note that rhetoric plays a considerable role in helping the assembled multitude make up its mind.

Therefore, while most of our contemporaries in either philosophy or political theory would say that one should not study the Politics of Aristotle without taking the Nicomachean Ethics into account, I am convinced that this approach overemphasizes the role of reason and underplays that of the emotions in political life. I cannot take the time to develop this viewpoint in full, but consider the following. First, we know something about crowd psychology.¹²¹

Second, we know something about Greek psychology in particular.¹²²

Third, we have a little handbook that Aristotle himself wrote to aid those who found themselves having to speak in public. The Rhetoric is a textbook of devices, dramatic, psychological and linguistic--which a speaker may employ at one time or another to sway an audience to a given action or point of view. As the primary tool of the politician in the assembly, then, rhetoric is not simply an art for the dilettante to study and practice at his leisure: it is the essential tool for gaining and wielding effective power in the assembly. One cannot use it without a knowledge of his audience, that is, without a profound knowledge of his fellow citizens. Therefore, I submit that rhetoric and not syllogism comprises the speech of the phronimos.

Further, given the absence of a set of abstract principles or standards external to politics which might serve as universals to guide the assembly, I think it reasonable to expect that the argument which carries the day will be, as often as not, the most persuasive rather than the most true. Here is Versenyi's summary of the argument for rhetoric that so shocked Plato:

Since all human inquiry moves within the realm of opinion, where deception is easy, all persuasion (philosophic, "scientific," legal or other) is a result of the force of eloquence rather than of rational insight. . . . If men knew, there would be a great difference between deception and truth. As it is, we can only distinguish between successful and unconvincing, persuasive and fruitless arguments.¹²³

Whether rhetoric makes integrative political judgments possible is open to doubt; whether it has had demonstrable historical

consequences is certain. The demagogue was an archetypal figure in the Greek polis and the consequences of his actions for the welfare of the society were widely known. Basically, the problem was this: assembled bodies of men are often carried away by rhetoric, passion, and the beguilements of the outstandingly brilliant, devious or glamorous. Though the assembly is the center of debate and deliberation, the institutional structure of responsibility is threatened when non-officeholding citizens rise on the assembly floor and recommend or urge policies that the assembly adopts. Any citizen could stand and speak his mind; any citizen's proposals could be enacted into policy. The difference was that such citizens, unlike the magistrate proper, were not subject to the audit and not formally accountable for the consequences which followed the enactment of their proposals. That this could be a severe problem can be drawn from the career of Alcibiades. That the Greeks recognized it as such can be seen from certain changes that they enacted into law:

For if a decision which had been taken turned out to have bad consequences, those who had voted for it could always claim that they had been misled or deceived by the orators who had spoken in favor of the measure, while the orators could claim that they had no responsibility because they had no authority. They had merely expressed their opinion, and nobody had been compelled to follow it. There can be no doubt that this government of irresponsible advisers and chance majorities contributed largely to the crushing defeat which Athens suffered at the end of the Peloponnesian War, although at the end of the first part of that war the advantages had been all on the Athenian side in spite of the terrible and unforeseeable losses that Athens had suffered through the plague of the years 439, 429, and 426. In the fourth century, the absolute sovereignty of the people was somewhat restricted through the introduction of a more elaborate law code and the prescription of a very strict and

complicated procedure for the repeal of old, and the creation of new laws.¹²⁴

Let me just add in closing here that I do not find a prejudice against rhetoric in the Aristotle scholarship so much as I find a tendency to ignore it completely. This, in turn, I think reflects something more about our current institutions and mode of life than it does either about Greek practices or a public space politics in general. Were we familiar with political participation ourselves, it seems, we would not so easily ignore the role that rhetoric plays or can play. But we don't have this experience. Instead, we read books, diagram arguments and think about whether statements and proposals are "reasonable" or not. We don't go out and participate; we don't enter the public space with our point of view firmly grasped only to have it swept away by someone's stupendously moving presentation of the other point of view; we don't ourselves abandon tightly reasoned precepts for the "good of the whole" in the moment that that good sweeps over us in a wave of collectively high spirited affirmation. And since we have so little experience of such things, and since we would most like to be able to protect ourselves by maintaining our ability to "think" through the social and political relations posited by Aristotle's theories of government and of participation, we ignore the human element, the irrational, the emotional, the vainglorious and egotistical sense of possession and power that can sweep over large gatherings and make this sort of government erratic and dangerous. It is, in the words of Winston Churchill, ". . . absolutely the worst form of government imaginable--except for all the others."

Machiavelli: a Republic of Divided Sovereignty

To attack and inflict lasting damage on a central assumption of an entire civilization is an achievement of the first order.

Isiah Berlin

But to return to the dangers you run if affairs remain as they are, I wish to make a prediction. I say that if an emergency comes when the city is not at all reorganized, one of two things will be done, or both of them at once: either in riot and haste a head will be set up who with arms and violence will defend the government; or one party will run to open the Hall of the Council and plunder the other party. And whichever of these two things comes about (which God forbid), Your Holiness can imagine how many deaths, how many exiles, how many acts of extortion will result, enough to make the cruelest man--much more Your Holiness, who is most merciful--die of sorrow. There is no other way for escaping these ills than to give the city institutions that can by themselves stand firm. And they will always stand firm when everybody has a hand in them, and when everybody knows what he needs to do and in whom he can trust, and no class of citizen, either through fear for itself or through ambition, will need to desire revolution.

Machiavelli
A Discourse on Remodeling The
Government of Florence. 1520.

Conceptual Background: Ambition Plus Fortuna Plus History
Equals Politics

"The accidental," says Zeller, "arises when a free or unfree activity directed to an end is brought by the influence of external circumstances to produce a result other than that end." Spontaneity is predicated in the case of such a disturbance generally, whether the activity disturbed and impeded is that of a being exercising Moral Choice or not; Fortune, only when the agent whose activity is thus modified, is a being exercising Moral Choice. . . .Chance plays round the ordered process of Nature, careless whether it mars or aids it or does neither. Its essential characteristic is to be without design and irregular; it is the negation of Intelligence and Nature.

Of all the human characteristics that might be noted by a

political theorist, the one that comes up most often for Machiavelli is that of ambition. It drives men forward; it leads to the destruction of both republics and principalities; it contributes to the animosity that usually holds between the nobles and the people; it makes for outstanding careers and, as often, destroys them. We do not find the well-modulated world of the virtuous here, or the reasoned dialogues of truth-seekers in the agora. Instead, the life of men in cities is chaotic, constantly changing, colorful, violent, faction-ridden, frequently orchestrated by cabals and conspiracies, and peopled with skilled practitioners of intrigue. One reads the false message bourne in a leather pouch by the faithful courier, hears the clanging of hooves on pavement, sees the quick flash of sun on steel, senses the tension and power in the body of the other across the negotiating table, fears the poison in the wine glass, ignores the blood on the walls of public buildings. Men are duplicitious, venial, hungry for power and riches, eager to curry favor with those who would advance them, and motivated by the desire for gain for themselves and their families, and a sense of honor that tolerates no insult. The problem is to contain them; to channel their energies, to satisfy the urges that will not be denied, and somehow to orchestrate the competing interests of the various classes that they not destroy one another--civic life along with them--in plotting to seize the city by the throat and break her to serve their selfish ends. Machiavelli comes, picking his way among the corpses, seeking to found a republic.

In the political thought of Machiavelli, the concept that

embraces this mordant chaos is that of Fortuna.

I compare Fortune with one of our destructive rivers, which when it is angry, turns the plains into lakes, throws down the trees and the buildings, takes earth from one spot, puts it in another; everyone flees before the flood; everyone yields to its fury and nowhere can repel it. Yet though such it is, we need not therefore conclude tht when the weather is quiet, men cannot take precautions with both embankments and dykes, so that when the waters rise, either they go off by a canal or their fury is neither so wild nor so damaging. The same things happen about Fortune. She shows her power where strength and wisdom do not prepare to resist her, and directs her fury where she knows that no dykes or embankments are ready to hold her.¹²⁵

Fortuna is the accidental in history and the unpredictable in men. For Machiavelli, it controls but half our lives while we control the other half.¹²⁶ Always a force to be reckoned with, it thwarts reason and planning and confounds those who would carefully anticipate either the structure of events or the timing of actions. It suddenly elevates the incompetent or utterly shatters the empire. It may strike the triumphant, like Alexander the Great, or the crafty, like Alexander VI. While we can prepare for it through awareness and caution, our acceptance of it as a force beyond our control, but likely to interfere with our claims means that we should always expect that political action will have unintended consequences, and that nothing planned or executed by men can ever turn out precisely as they thought it would.¹²⁷ Machiavelli has here compared Fortuna with a river. At other places he speaks of "fortune's wheel"¹²⁸ and draws upon the old medieval image and trope of the wheel of fortune from which kings are seen to fall with their crowns and their sceptres.¹²⁹ Thus conceived, it is Fortuna which contributes to the

rise and fall of individuals, republics and principalities. But, as we have indicated, this force must not be construed as that which determines the course of a career or the final outcome of a chain of events. Fortuna can be anticipated and dealt with, for she is "a woman and it is necessary, in order to keep her under, to cuff and maul her."¹³⁰ The political actor confronts an indeterminate realm in which Fortuna acts as a constraint which he may nonetheless understand and harness to his own purposes. This means that men are free to act and to choose, yet are constantly confronted by a sort of exigency that is utterly foreign to the accounts that either Aristotle or Arendt has provided of political life. Mishap or opportunity constantly lurk and the political actor must be poised like a cat--ready to pounce or to run.

This concept, this notion of Fortuna, which Machiavelli sees as something like a natural force appears in his thought, I think, because of certain specific characteristics of the Italian city life of his time--factors which set the Italian city-state apart from the polis. The violence which sweeps through the Italian city is not rooted in a simple opposition of democratic and oligarchical classes of citizens, as it was in Greece during the fifth century, but comes from a different kind of struggle that took place between princes and nobility, and the mass of people at the bottom. This last included workers and artisans who would never have been admitted to the franchise at Athens, but who had long enjoyed intermittent access to power in the Italian communes. Under such conditions, the divergent

claims to power and the self-assertion of newly emergent commercial interests during the quattrocento, and the theories of justice with which each of these rationalized its claims to power, were far more radically opposed to one another than had been the case in Greece. Hence, I think it is possible to say that if one compares the ancient polis with the Italian Renaissance city, one sees a breakdown in the moral unity of the latter under the strain of a highly intensified class conflict. I will not explore this material difference here, but I think that it could be made out and demonstrated. In any case, it is the sudden eruption of strife and violence which frequently overwhelms a city and radically changes its constitution that serves as a frequently cited example of the power of Fortuna.¹³¹

In general, Machiavelli holds that without an overall direction, men will find to their sorrow that Fortuna has pitched them and their cities into chaos and squalor. To found a republic in Italy meant that first of all the men of his time needed a model of a well-governed city which could serve as an example which they could emulate. He finds such a model or telos in the Roman republic. If that ancient republic could somehow be made known to modern men, it could serve as a source of examples of effective and noble political action for individuals, and provide a collective goal for entire cities. This, in turn, might make it possible for the cities of Italy to free themselves from interminable civil strife and, ultimately, from foreign occupation. This is the central message of the Discorsi.

In turning to Machiavelli's conception of the well-ordered

city, then, it is necessary to turn to ancient Rome--not as it actually may have been, but as Machiavelli presents it to us in the Discorsi, based on the writings of Titus Livy. In both Machiavelli's general orientation to politics and this particular connection with Livy, we find several threads which lead back to Aristotle. First, men are moved to action through their desires and intentions which can be channeled like Fortuna and drawn forth and elevated either through personal example or by the desire to instantiate a collective aim. Hence a teleological mode of explanation is appropriate to the political realm. Second, Machiavelli's method of presenting what he knows about politics, while not based on the authority of Aristotle, echoes what we found in the *Politics*.¹³² There is no "system" here, only a series of aporiae, which often explore a particular problem from several points of view. Third, R.M. Ogilvie, in his introduction to Livy, finds that this historian himself worked within the framework of a philosophy of history and a theory of unchanging human character that were derived from Thucydides and Aristotle:

The difference between Livy and the others (i.e., Roman historians) is that his philosophical detachment enabled him to see history in terms of human characters and representative individuals rather than of partisan politics. Livy accepted a tradition going back to Aristotle (especially in the *Rhetoric*: 1367b) and to Thucydides which explained historical events by the characters of the persons involved. As Aristotle said, "actions are signs of character." Because people are the sort of people they are, they do the sort of things that they do, and the job of the historian is to relate what happens to the appropriate character. Equally, however, it follows that if similar characters occur in 500 B.C. and 20 B.C. their possessors will tend to act in a similar way, so that one can infer from what a man of a certain character did in 20 B.C. what a similar character must

have done in 500 B.C. Human Nature, Thucydides argued, is constant and hence predictable. [1.22.4]. This philosophy helps to account for the readiness with which historians transferred events from the recent to the remote past but Livy used it as the framework of his history.¹³³

What we may think of such a philosophy of history has nothing to do with its influence upon Machiavelli and the Renaissance. He tells us often enough that the world has always gone on in the same way, and that historical situations have a tendency to repeat themselves.¹³⁴ The reader of Machiavelli must always beware that he writes to the political actor and not to the academic student of politics, and that it is this audience with its immediate needs that he seeks to serve. Hence we find that all of his writings are concerned with the particular and the concrete, rather than with the general and the abstract.¹³⁵ While not a philosopher then, and completely unconcerned with the niceties of thought which have concerned philosophy since Plato's time, I find that Machiavelli's general approach to politics and his aporistic method are entirely consistent with Aristotle's conceptions of what students of any practical science can hope to obtain. For both Machiavelli and Aristotle, then, a "practical" science is concerned first, with things said to be in our power; second, with things which come to pass by our agency but not always uniformly--i.e., subject to the unanticipated consequence; third, with seeking discoveries the exactness of which is defective when compared to those of the physical sciences; and fourth, with particulars and not with generalities or universals.

Within this constricted yet problematic realm of

understanding, I think we can show that Machiavelli's writings rest on the following general assumptions about what politics is. I think that he holds that political action is context-dependent; that effective political action therefore depends upon a clearheaded understanding of one's context, including the nature of the times and the ambitions of those who surround one and with or against whom one must act. Hence, if the present context can be shown to be "like" a past one, then the political actor can learn effective lessons by studying what was done in the precedent case. Can we make a sloppy distinction? His philosophy of history could be used to provide explanations for why he proceeds with something like the jus gentium of English Common Law, rather than following the more precisely laid out and clipped pathways of the lex publicam of political philosophy. In other words, he stands with Aristotle, and not with Hobbes or John Rawls.

In addition to the disproportionate weight of classical influence--which includes Aristotle, Livy and Polybius--upon the Discorsi and other works, there are a number of other general factors about Machiavelli's thought that might be mentioned, though they will not be explored here to any extent. First, Machiavelli is not a Christian, and, indeed, presents an ethics of civic life and political action that are contrary to the tenets of Christianity.¹³⁶ Since the republican tradition in general denies the possibility of discovering external or "transcendental" standards according to which politics might be judged, this amounts to saying little more than that politics

is a secular activity and that if political actors are not guided by Christian precepts, students of politics may freely ignore them. Second, and closely related to this fall from Christian metaphysics, is a factor that completely distinguished Machiavelli from both his medieval predecessors and scholarly contemporaries: he entirely disregards any attempt to found a philosophy of right, and no trace of Natural Law theory is evident anywhere in his works.¹³⁷ With this disappear both most of the traditional criteria for submitting political action to moral judgment, and some check on the rule of pure expediency in politics. What criteria remain are to be found in his republicanism, to which we will turn shortly. Third, it is important to note that Machiavelli's republicanism lies square in the midst of an ongoing stream of Florentine political thought and values. It is hardly his own invention. This tradition surged during the crisis in republican self-awareness that accompanied Florentine defiance of the Milanese imperialism of 1390-1402, and afterwards went on to sweep the political thought of that city during the next generation--beginning with the writings of Bruni and continuing throughout the general revival of classicism during the early quattrocento.¹³⁸ Fourth, The Prince and the Discorsi are two completely separate works, written to different audiences and directed to diverse political ends.¹³⁹ The Discorsi, with which we are primarily concerned, are addressed to those who would establish a republic, or who, finding themselves living in one, would like to know what to do to keep it.

Like the Roman writers whose ideals were constantly before

his mind, like Cicero and Livy, Machiavelli believed that what men--at any rate superior men--sought was the fulfillment and the glory that come from the creation and maintenance by a common endeavor of a strong and well-governed social whole. Only those will accomplish this who know the relevant facts. If you make mistakes and live in a state of delusion, you will fail in whatever you undertake, for reality misunderstood--or worse still, ignored or scorned--will always defeat you in the end. We can achieve what we want only if we understand firstly ourselves, and then the nature of the material with which we work.¹⁴⁰

We have already alluded to the nature of such "material:" violent, ambitious and all-but-ungovernable men who will pursue self-interest at nearly any cost to others. Machiavelli seeks to work on this human material by imposing a new "form" upon it,¹⁴¹ and he sets about this task in two ways. Knowing that he must establish goals for both individuals and cities to aim at, he provides the first a doctrine of virtu, which is really a psychology of subjective political action based on the ethics of pagan antiquity, and the second with a theory of republican government--i.e., the mixed constitution of Aristotle and Polybius.¹⁴² The form-matter relation, then, appears in two important dimensions of his thought. First, virtu, the mix of attributes which Machiavelli holds that the citizens of a republic must have if their city is to survive in liberty, has as its function to impose form upon fortuna.¹⁴³ At the same time, the republican constitution is the form which must be impressed upon the matter of the men who live in the city.¹⁴⁴ He thus suggests parallel solutions for the problem of politics, one for the particular and the other for the general aspect of the polity. It is important to note here that the political aspects of this theme appeared earlier in Aristotle's

Politics: citizen and republic are mutually dependent. The man of virtu upholds his city and it, in turn, educates him and makes him strong in the way of virtu. If the individual is not virtuous, the population cannot be. A virtuous population will uphold good laws and act to preserve its own liberty; the laws they sustain will press them into virtu:

. . . just as good morals, if they are to be maintained, have need of the laws, so the laws, if they are to be observed, have need of good morals.¹⁴⁵

The antithesis of virtu for Machiavelli is corruption. A corrupt populace is one which pursues selfish or short-term interests at the expense of the framework of institutions which preserves and guards its liberties. A people that allows itself to become corrupt can easily be taken advantage of by the wily political manipulator and bent to serve his own ends. Hence failure to exercise virtu will, in the long run, lead first to corruption among the people or rulers and ultimately to the degeneration of the form of the polity.¹⁴⁶

Machiavelli discusses specific attributes of virtu at several places in the Discorsi. In general, it does not mean wisdom or goodness or power. In all cases it seems to connote efficiency in action with respect to attaining the ends the actor has in view. First of all, for the citizen of a republic, it entails a willingness to put aside self interest and work for the common good.¹⁴⁷ Hence, by the argument we first saw in the Aristotle section, the concept is fundamentally related to political life: "politics" is a public thing in the sense that it is concerned with those things that affect the

generality of the citizens, and the goods with which they are severally concerned. Further, if virtu is predicated of politics and politics of public life in the double sense that it takes place in full view of the populace and concerns common goods, then the exercise of virtu improves the general quality of life and acts to check ambition. Overweening ambition arouses animosity in the people whenever it appears:

. . . in D.I.30.3, where Machiavelli is discussing the same subject, he writes: "In time of war Rome availed itself of everybody in the city, whether they were nobles or not, and in consequence there were always to be found in Rome at any given epoch so many virtuous men with victories to their name that the people had no cause to be dubious in regard to them, since there were so many that one looked after the other." Hence candidates for office were careful, he adds, "to maintain their integrity and studious to avoid the least sign of ambition, lest it should cause the populace to attack them as ambitious persons." By "virtus" the Romans meant any characteristic that is appropriate and becoming in a man (vir). The word connoted not only a man's personal character and his ability, but also devotion to the state, and again efficiency at his job, which was of special importance in the statesman and the general. But man, as the Romans conceived him, was first and foremost a citizen with duties to the commonwealth in which he lived, and unless he fulfilled these duties to the best of his ability he was not, from the standpoint of the Romans, or of Livy or Machiavelli, a virtuous man. (Cp.D.111.8.3.)¹⁴⁸

When Machiavelli moves from the "is" to the "ought" of things, he nonetheless maintains that the latter be defined in terms of what is practicable and not in terms of what is imaginary.¹⁴⁹ This ultimately means that it is not to principle to which the political actor must appeal, but to the characters and desires of those around him, i.e., to the material that he has to work with and the structure of competing interests and passions in which he finds himself.

Merleau-Ponty noted that virtu is a means of living with others, a way of affirming oneself by acting in consultation and exchange with them, and even the Prince gives way to the opinions of others in the process of determining his course of action.¹⁵⁰ At the same time, it is clear that virtu and communication with others are placed at the service of the needs of power, and in the final analysis no one can be called "virtuous" in Machiavelli's sense who lets himself be daunted by Fortuna or otherwise acts imprudently. Soderini, for example, was a virtuous man who transformed opportunity into failure by not striking down his enemies when they were still disorganized and he had the opportunity to defeat them. Instead, he sought to win them over by kindness. Unreconciled, they successfully plotted against him. His little exercise in Christian virtue caused not only his own ruin but that of the Florentine Republic--in other words, personal scruples mortally wounded the common good.¹⁵¹ But at the same time--and here we see the utter futility of trying to generalize about such matters--neither is it virtuous to successfully acquire or retain power through excessive or prolonged cruelty because actions of this sort alienate those against whom they are directed and sow seeds of hot hatred throughout the city. The city, i.e., the common thing, is weakened when so divided.¹⁵²

A Well-Ordered Republic

Machiavelli's republicanism, his impassioned advocacy of institutions open to participation by a broad range of citizens, and

his reiteration of arguments in favor of a governo largo are not couched in anything like the moral terms which the twentieth century has seen fit to bring to bear on such questions. What is at stake has nothing to do with justice or fairness for its own sake, or with the notion that there is anything reprehensible in formally or systematically excluding some group from power. Yet, within the--to us--relatively limited diameter of his spotlight of liberty, we nonetheless find a range of social and economic classes which were not to see power in other parts of Europe for hundreds of years. Machiavelli wants them in that spotlight, visible in the glare of liberty, because he knows that once admitted to political action they will both strengthen the city and check the ambitions of the nobility or signori who would otherwise corrupt it and bring it down.

. . .in Rome the evil of establishing . . . tyranny came from the same causes as most tyrannies in cities, namely, the too great desire of the people to be free and the too great desire of the nobles to command. And when they do not agree to make a law in freedom's behalf, but one of the parties rushes to support a single person, then tyranny quickly appears. . . . When a people thus brings itself to make this mistake of giving one man authority in order that he may attack those it hates, and that one is shrewd, he always becomes tyrant of that city, because with the aid of the people he undertakes to get rid of the nobility, and he never turns to the oppression of the people until he has got rid of the nobles. By that time, when the people realizes it is in slavery, it has no one with whom to take refuge. This has been the method used by all who have founded tyrannies in republics.¹⁵³

We have seen this kind of argument before in Aristotle: a balance of power between the different classes in the city prevents the rise of tyrants. The one-sidedness of tyranny will lead to

further domestic strife in the long run. Further, Machiavelli adds a dimension that did not appear in Aristotle. He is not arguing here from a moral basis so much as he is making it clear that there are efficient means by which a city may remain strong in relation to its neighbors. A city divided by class conflict is a weak city. A united city will maintain her strength--led by the talented and virtuous who are sown at random by Fortuna, scattered like the seed of the paleolithic farmer upon both the hills and valleys of the social order.

I say, then, about that fault of which writers accuse the multitude, that all men individually can be accused of it, and chiefly princes; for he who is not regulated by the laws will commit the same errors as the ungoverned multitude. And it is easy to make sure of this, because there are and have been many princes, and the good and wise ones have been few. . . .Hence it is necessary to consider each man's nature for itself and to see if he is like the multitude, because the comparison ought to be made with a multitude regulated by the laws in the same way as those princes are, and it will be found to have the same goodness as we see in them, and it will appear neither arrogantly to domineer nor humbly to serve.¹⁵⁴

The laws of which Machiavelli speaks here are those of a republic. A republic is a mixed body of the sort Aristotle and Polybius had described. At the beginning of the Discorsi, he notes that states may be governed by the one, the few or the many, and that each has both a healthy and a degenerate form.¹⁵⁵ He then unfolds an endless cycle of the emergence and decay of each of these, borrowing shamelessly from Polybius, working from historical examples in Livy, and says that "a state might circle about for an infinite time in these forms of government." Hence,

. . . all three types are pestiferous by reason of the short life of the three good and the viciousness of the three bad.¹⁵⁶

The solution to the dilemma raised by this endless cycle of growth, decay and collapse is to abandon all hope of sustaining a state organized along any of these lines, and instead to combine the three into a single plan, because "in that case one [part] keeps watch over the other." Thus, early Rome at first combined the powers of a monarch in the Consuls, and oligarchical power in the Senate. It remained for the popular element to attempt to wrest power from the nobles in the senate

. . . and the people rose up against it; thence, in order not to lose the whole, the nobility was obliged to grant the people their share, and on the other side the Senate and the Consuls continued to hold so much power that in such a republic they were able to keep their rank.¹⁵⁷

What is this but a balance of power in a mixed government? On the basis of such institutional arrangements, the Roman Republic was able to establish internal stability, and ward off the encroachments of corruption and the prediations of Fortuna. Over the centuries she then gradually wrote that history which Machiavelli finds so redolent with good examples.

But let us become more specific. Since we are primarily interested in the notion of a public space as it might be embodied in a popular assembly, what did Machiavelli propose when he turned to consider the institutional structures of his own time? What can we infer about what he might have done had he actually been able to play the role of innovator in an Italian city, and what arguments did he

put forth to justify his views? Is the assembly that Machiavelli proposes "sovereign" in the way that Aristotle's is?

Machiavelli's most specific published statements on the possible nature of a republican government in his own city are to be found in his "A Discorse on Remodeling the Government of Florence," which was written to Giovanni de'Medici, then Pope Leo X, about 1520.¹⁵⁸ Note that the suggestions embodied here are based upon notions first advanced by Savonorola and subsequently incorporated in the Florentine constitution of 1494. That document, nullified by coup d'etat in 1510, had established sovereignty and legal rights, prescribed the composition of ruling councils, determined the qualifications for individual service and outlined the duties of the various magistracies instituted to oversee public affairs. We will see that the assembly proposed by Machiavelli to Leo is a body weaker and more constrained than the ekklesia of Aristotle's polity, and that it would be inaccurate to characterise the Grand Council as the sovereign element in a mixed government. At the same time, what he proposes fits the formal definition of a republic and can be seen as the institutionalization of a treaty of peace between conflicting class interests in the Florence of his time.

Here is a sketch of what Machiavelli proposed in his letter to Leo.

There are three sorts of men who exist in all cities: the most important, those in the middle, and the lowest. Hence there must be three ranks in a republic and not more. At the top, then, he sees a

council of sixty-five citizens of forty-five years and more, fifty-three for the major guilds and twelve for the minor guilds. These shall serve for life. From them an executive or *Galfonier* of Justice is chosen. The remaining sixty-four are divided into groups of thirty-two, which rule with him for alternating one-year periods. All together are to be called the Signoria.¹⁵⁹ The Signoria are the first rank in the city.

The second rank is to be arranged in this way. A council of Two Hundred, composed of men at least forty years old, forty of them chosen from the minor guilds, and sixty from the major guilds. None of them would be permitted to belong to the sixty-five. They also should hold office for life and be called the Council of the Selected. These two ranks, the Signoria and the Council, would hold all executive and most administrative power in the city and have primary responsibility for decisions of broad policy. The weakness of this constitution, so far, lies first in Machiavelli's failure to stipulate short office tenure and second that both of these ranks shall be appointed by Leo himself, rather than chosen by the assembly from among its own ranks as would be the case with Aristotelian citizens.¹⁶⁰ Leaving these considerations aside momentarily, we come to the popular element itself:

It is now left to satisfy the third and final class of men, which is the whole general body of citizens, who will never be satisfied . . . if their power is not restored or if they do not have a promise that will be restored. . . . And therefore I judge that you are under the necessity of reopening the Hall of the Council of One Thousand, or at least of the Six Hundred Citizens, who would allot, just as they formerly

did, all the offices and magistracies except the aforementioned sixty-five, the Two Hundred, and the Eight of Balia; all of these [latter] during the life of your Holiness you would appoint.¹⁶¹

This is clearly not a program for an Aristotelian polity. Neither the English of the seventeenth century nor the Americans of the eighteenth would have stood for such a thing. But we need to look first at the context, and second at the arguments Machiavelli puts forth in defense of this scheme before deciding whether its tripartate structure is sufficient ground for calling it a republic or mixed government.

The context is as follows: the House of Medici had succeeded in bringing about the collapse of the Republic of Florence, and for ten years had held control of the city. Leo was, for all intents and purposes, now in charge. Machiavelli, who had held the position of Secretary to the deposed Galfonier Soderini, therefore finds himself writing to an opponent to propose institutional arrangements which his reader will suppose --correctly or not--to be directly contrary to his own interests. Seeking preferment and favor, the writer nonetheless fervently and cleverly advocates a republic to one who, we can be sure, has never felt the slightest need of one. Machiavelli, no doubt, weaves a tangled web which we cannot here take time to completely unravel, but the thought does occur: should he gain preferment and official position under the rule of this Pope by proposing a plan that would defuse tensions in the city, how better could he contrive to get along with his fellow citizens as well, than to take some of the cre-

dit for helping to have established arrangements that gave to them some power and which, in that century at any rate, comprised grants of a sort that Princes were not wont to give?

Here are some of the propositions with which Machiavelli seeks to persuade Giovanni de'Medici. The first one is directly concerned with the public space:

Without satisfying the generality of the citizens, to set up a stable government is always impossible. Never will the generality of the Florentine citizens be satisfied if the Hall is not reopened. [i.e., The Hall of the Grand Council in the Palace of the Signory]. Therefore, if one is to set up a republic in Florence, this Hall must be reopened and this allotment made to the generality of the citizens.¹⁶²

Following this, further measures are proposed which will serve to continue both the republican form and to satisfy the generality of the citizens once death shall have forever removed this Pope from the temporal scene. These measures involve an elaborate system of checks and balances which are to hold among the bodies previously proposed, and in addition he now introduces the office of Provost. Four people are to be appointed to this office, drawn from among the people by the Council, and these officers shall reside in the Signory, in an ordered succession, and have veto power over the acts of the Signoria. These measures are put forth for two reasons:

One is that if the Signoria or one of the councils does not decide a matter as the result of discord, or does things opposed to the common good through wickedness, somebody may be at hand to take from them that power and appeal their decision to another body, because it is not good that one kind of magistrate or council should be able to retard public business without someone's being there who can arrange for action. It is also not good that officeholders should not have somebody to observe them and make them abstain from

actions that are not good. The other reason is that on taking from the generality of the citizens . . . the possibility of becoming a Signor, it is necessary to restore to them an office resembling that taken away, and this provostship is greater, more useful to the republic, and more honorable than the earlier office.¹⁶³

Machiavelli characterizes these arrangements as a monarchy during the lifetime of his Holiness because of the appointive power rested in that individual, but as a republic thereafter. He closes with a plea that this plan of his be instituted, giving as final grounds that the city is, at present; internally divided among simmering and confused factions, and predicts the outbreak of civil strife in the event of an emergency. The only way of escaping the ills of faction is to provide the city with institutions that

. . . by themselves can stand firm. And they will always stand firm when everybody has a hand in them, and when everybody knows what he needs to do and in whom he can trust, and no class of citizen, either through fear for itself or through ambition, will need to desire revolution.¹⁶⁴

This final sentence is a direct echo of the Aristotelian prescription that, in a properly mixed constitution, no class or segment of the citizens would desire a revolution--even if given the opportunity to change their constitution. As Sheldon Wolin has pointed out, one reason for the superiority of the republican system consisted in its being maintained by force of the populace, rather than by force over the populace.¹⁶⁵

At the same time, as we have said, the popular element is far from sovereign here. For Machiavelli, what is most important about the people is not that they have "rights" (a modern prejudice at best)

but that they have ambitions (which is a somewhat more ancient teaching). Furthermore, they not only serve to check the countervailing ambitions of those who look down in the city, they also embody characteristics of political judgment and wisdom which must be incorporated into the political process if matters of general concern are to be prudently arranged. Hence Machiavelli says,

In this, both as to false opinion and as to improper influence, the people always make fewer mistakes than Princes do.¹⁶⁶

In general, the people judge well of public officials and particulars, but do not judge well of generalities.¹⁶⁷ Thus, though they provide an all important source of virtuous or great men, without whose leadership no city can long maintain itself in strength or reach for greatness, their judgment is neither constant nor reliable enough for them to be entrusted with plenipotentiary power. But they must share, they must participate, for even the gran signori cannot long make adequate domestic or foreign policy without both their cooperation and their wisdom. Furthermore, and this factor is important for Machiavelli, their active participation is essential to any city that would rise above the ordinary.

. . . A City . . . that does not make use of her populace for anything glorious can treat them as she likes . . . but if she hopes to do what Rome did, she cannot make a distinction against the people.¹⁶⁸

It is ultimately the common good which is at stake here, and the common good which makes cities great.¹⁶⁹ Neither the health nor the potential greatness of a city can be maintained at its expense,

and the common good cannot emerge without the active participation and assent of the common people. The common good is most likely to be preserved and maintained through republican institutions, and especially through the institution of the Grand Council. Through its agency, the cycle of decay and corruption, which we saw at the beginning of the Discorsi, may be circumvented by periodic renewal of the form or constitution of the city.

It is most certain that there is a limit for the existence of all things in the world; but they generally move through the entire course ordained for them by Heaven without getting their bodies into confusion but keeping them in the way ordained; . . . I am speaking of mixed bodies, such as republics and religions. I say that those changes are to their advantage that take them back toward their beginning. And therefore those are best organized and have longest life that through their institutions can often renew themselves or that by some accident outside their organization come to such renewal. And it is clearer than light that if these bodies are not renewed they do not last. The way to renew them, as I have said, is to carry them back to their beginnings; because all the beginnings of religions and of republics and of kingdoms must possess some goodness by means of which they gain their first reputation and their first growth. Since in the process of time that goodness is corrupted, if something does not happen that takes it back to the right position, such corruption necessarily kills that body. The doctors of medicine say, speaking of the bodies of men, that 'daily something is added that now and then needs cure.'¹⁷⁰

Sheldon Wolin sums up not only Machiavelli's project, but its historical context:

. . . To create a political theory for a world of random movements, a task which had never been seriously undertaken before, meant surrendering certain kinds of inquiry because they no longer presented meaningful problems. In a world pulsating with change, there seemed to be little point in continuing the old quest for a motionless polity. Likewise, there was a marked shift away from questions of legitimate authority, with their connotations of a stable political world, to questions of power, or the ability to exert mastery

by controlling an unstable complex of moving forces. Similarly, the old values of pax, ordo, and concordia were treated by the new science not as ends, but as ironies: the nature of the political condition was such that good often issued in evil, order in disorder, culture in anarchy. Moreover, the fugitive quality of events made it difficult to establish nice distinctions. The compulsions of the world were more often necessary than logical, and "necessity will lead you to do many things which reason does not recommend."¹⁷¹

To return to the problem of the political judgment, then, we recall that such a judgment, properly speaking, concerns matters of import to the general order of society. Such matters must be addressed through public procedures which themselves serve to integrate the diversity of points of view involved. Machiavelli and Aristotle both posed this problem squarely against the backdrop of class conflict and civil strife and--while failing to cast the net of citizenship as widely as we might have wished--held that both an integration and a balance of opposing forces were needed to animate the procedure and prevent systematically unequal distribution of political power and goods. Each proposes a mixed government. Each rests his defense of human liberty on a set of institutions which channels the desires of the moment, outlives individual political actors, and itself acts as a school in the open-ended politics and mutual check and compromise necessary to sustain it. Each presents a politics in which conflict and compromise take place with respect to concrete particular interests, rather than over abstract principles or moral systems.

In Machiavelli's design, qualitatively different points of

view are separated and given institutional life in a republic which prepares for their reintegration by balancing the forces they represent before requiring that all concur in any forward moves. In other words, the integration which we have previously associated with the kinds of political judgment that are rendered in the public space is here not carried by the assembly alone, nor by the assembly acting in concert with magistrates drawn from its ranks. Instead, sovereignty is divided among separate institutions of government, each drawn from and having the basis of its power in a particular segment of the social order. In order to move forward, the various parts of the state must cooperate. Compromise, then, is something that takes place between branches of the government, and is not a synthesis attained through assembly debate and deliberation. The public space of the assembly is not the forum in which all forces come together to struggle and contend, but rather that place in which the popular element gets a sense of its own desires and purposes, before checking and being checked by the opposed interests which themselves control other organs of the state.

What we see here, then, is the application of the Aristotelian philosophy in a different context, and from this we draw the implication that the instantiation of a philosophically or formally stipulated set of political arrangements will always be subject to the specific vagaries of a given historical context. At bottom, on both views, lies the struggle for power between classes. The self-attitudes of such classes, their aims, their respective psychologies

and the history of their interrelations constitute the bounds of the theoretically plausible and the politically permissible. Politics is, after all, a practical science, and the desire for popular participation in government is subject to constraints advanced by opposed interests. Therefore, while the public space is an integral part of the process of forming political judgments in the polity of Machiavelli, it is not alone at the heart of the affair.

The Whig Science of Politics

"Englishmen are no more to be Slaves to Parliaments, than to Kings."

Posterity will be ashamed to own,
The actions we their ancestors have done,
When they for ancient precedents enquire,
And to the Journals of this age retire,
To see one tyrant banish'd from his home,
To set five hundred traitors in him room.

After passage of the Septennial Act of 1716
[McIlwain. 50.]

Early English Background

At this point we make another leap in time and geography, away from the mediterranean basin to England, where the theory of the mixed constitution with its provision for public space appears to have gone next. The final full English version of this theory would not be drawn up and set forth until the founders of the American republic sat in deliberation and wrote the Constitution of 1787. Hence we take the view that this document was the culmination of over one hundred fifty years of intense intellectual argument and slow theoretical development in two countriess. This means that we have no central thinker or

text to which we might turn to study either the construction or application of republican ideas by the English. There is no English Machiavelli. For these reasons it is necessary to turn to the synthetic compilations of Pocock, Bailyn, Wood and others who have studied the vast quantity and range of the primary sources and summarized the views they contain.

According to J.G.A. Pocock, historians of seventeenth century English political and intellectual history have profoundly altered their understanding of this period--and of the American Revolution that followed--since the 1970s.¹⁷² Pocock indicates that there now seems to be emerging a new way of looking at the Puritan Revolution the Glorious Revolution and the American Revolution, one which takes them in chronological order and sees them as successive stages in the decline of an old order and the emergence of a new.

Prior to the emergence of this view, it was the practice among historians to see the Puritan Revolution of 1641 as the climax or final catastrophe of the Tudor political religious and social order. In 1640 this world comes shattering to an end, and then after a revolutionary hiatus, is restored in 1660. This restored aristocratic world, however, is so unlike the old one that historians found themselves having to interpret it anew. A 1976 conference of historians made it obvious that such reinterpretations were converging, and that a "new paradigm" was at hand:

The structure of the Folger conference obliged the participants to locate the Puritan Revolution at the beginning rather than the end of a historical series, and this was in

part the secret of the new perspective they found themselves presenting. If any major works of recent historiography can be said to have dominated their thinking, it seems--to this editor at least--that these were three: Lawrence Stone's The Crisis of the Aristocracy, 1558-1640, J.H. Plumb's The Growth of Political Stability In England, 1660-1730, and Bernard Bailyn's The Ideological Origins of the American Revolution. That is to say, we see the Revolutions of 1641 and 1649 as occasioned by the breakdown of a certain aristocratic order, the Tudor, but as leading toward the reconstitution of another, the Whig; we see the Revolution of 1688 as an important but not the final step in the construction of the Whig order; and we see the Revolution of 1776 as the greatest but not the only insurance against that order in the reign of George III.¹⁷³

Our project here will be to very quickly sketch the outlines of the Whig Science of politics and the theory of the mixed constitution upon which it was based, through a series of writings by various parties in a long political struggle. Their thoughts and polemics were published in England and America over a long period of time, and have been synthesized and analyzed by Pocock and Wood, both of whom base much of their efforts and nearly all of their approach upon the work of Bernard Bailyn. Over the course of these debates, the attributes of the basic concepts in the protagonists, their practical experiences and their expectations of themselves and of the world came under a variety of pressures. By the time we cover the theoretical ground that lies between 1558 and 1786, we will see that the ultimate issue of this movement was an entirely novel concept of representative government. The study is important first because this long period of intellectual ferment in England provided both education and justification for the American revolutionaries. Second, English Whig politics of the 1640s provided intellectual sustenance for the American attacks

on the conservative English Whiggery of the 1760s. The Americans, having become Whigs of the former sort, failed to evolve in step with their counterparts in England, whereupon the English found themselves attacked by others who held to an antiquated form of their own views. Such background information is essential for any student of the American Congress who would attempt to evaluate its historical performance and present problems in terms of the Constitutional design.

One way of looking at the revolution of 1641, then, is to see it as a dispute over the correct form of the English Constitution, waged between advocates of the mixed constitution, on the one hand, and the defenders of a divinely-placed and sovereign monarch on the other. Attempts to untangle the welter of theoretical and historical sources which may have cast the mixed government theory on English soil, and nurtured it where it fell, seem futile. Weston sees the writings of Aristotle, Polybius, Cicero, and later continental thinkers in this tradition as crucial. Early in Elizabeth's reign, a number of important men at Cambridge University traveled to the continent and returned, bearing ancient texts, to teach them at this crucial center of influence.¹⁷⁴ In the next generation, John Aylmer went so far, in his disquisition on mixed government, as to point a finger at Parliament and say that here was the mixture of monarchy, aristocracy and democracy that the ancients had described. This contravened the prevailing and less radical versions of the doctrine, held by the Monarch and the Peerage, that sovereignty was divided between King, Lords and Commons, and that altogether, sovereign agency

rested with the King-In-Parliament. Aylmer's revisionism got him into trouble at court. Following this, Sir Thomas Smith published a treatise on mixed government, with explicit references to Aristotle, in 1584. These were by no means the only statements of the theory. Mixed government was "in the air" and gaining influence. Even Protestantism itself had become a factor in the spread of the new doctrine by 1550, and the mixed government theory was held tight in the grim embrace of the Presbyterian Church throughout the sixteenth century as a representation of its own scheme of organization, only to be applied to the English government itself during the seventeenth century.

But the signal event that moved the Aristotelian conception from the realm of academic and theological disputation to the center of political action was brought about by the monarchy, and the arena in which this actually took place was Parliament.

. . . On June 21st, 1642, almost two months before war began, Charles I publicly associated the theory of mixed government with the English constitution and thus gave the classical theory a vogue that it could have acquired so rapidly in no other way.

The remarks of Charles I on the mixed nature of the English government were contained in his Answer to the Nineteen Propositions, the cardinal document in the history of the classical theory of the English constitution and a pronouncement that proved to be one of the most influential ever made on the nature of the English government . . .

The King based his rejection of the Nineteen Propositions on the ground that the two Houses, because of the constitutional reforms that had been completed by August 1641, possessed sufficient power to prevent the growth of royal tyranny and that further concessions would upset the balance among king, lords, and commons and eventually encompass the destruction of the mixed and balanced government that he was

describing. In words that had an almost magical effect upon contemporaries he praised the existing government as a salutary mixture of the simple forms of government as these had been classified by Aristotle and later political philosophers.¹⁷⁵

Not for the first time do we see a theory of government that gives a share of sovereignty to the public space come to light and gain strength in the context of a public space. The crux of the matter is simply stated. If the English government was, indeed, "mixed" then all sovereignty did not reside in the Monarch, and he therefore shared power with organs of the state which derived their legitimacy from sources other than that upon which his own rested. This concession, forced upon Charles by necessity, amounted to a very large hole placed squarely at the waterline of that old tub, the Divine Right of Kings. She would not remain afloat in troubled waters. Thereafter, the struggle between King and Parliament would not be over whether Parliament had a share of sovereignty, but would revolve, instead, about the question of its dimensions. The Answer to the Nineteen Propositions provided the point of departure for subsequent debates between Royalists and Parliamentarians alike, and the theory of mixed government took a firm hold on the national imagination that was to last for the next two centuries.¹⁷⁶

But this is not the whole tale. If Charles' Answers served to instantiate a new conception of English government and diversify its sources of legitimacy, only half the task has been completed. What has been thus far accomplished for the English polity on the general level remains to be set in motion for the particular, i.e., for the

individual citizen. We have seen in the doctrines of both Aristotle and Machiavelli that citizen and polity are mutually dependent, and that if the polity is to institutionalize a public space for the purpose of making truly synthetic political judgments, a diversity of independent and self-interested citizens must arrive at the central point and participate in making those decisions. To borrow Machiavelli's language here, Charles' Answers had the historical consequence of providing the form needed for a republic. It remained, somehow, to impress that form upon the human material of England. Hence we raise the question how the political life, the forms of political action assumed by this theory, could come into being among English freeholders long accustomed to being told that political authority and power flowed from the top down and were embodied by agents of the Divine will. Pocock put the question thus:

It is not surprising, then, that for some time scholars have sought to raise not only the question of how the values and concepts of civic humanism could become established in a territorial-jurisdictional monarchy such as England, but the larger question of how and when, in what terms and under what conditions, the Englishman could develop a civic consciousness, an awareness of himself as a political actor in a public realm.¹⁷⁷

Pocock, therefore, emphasizes a strain of English political thought which he sees as having been primarily influenced by the Discorsi of Machiavelli. His approach is a departure from the traditional textbook account of Augustan political thought as Locke et praeterea nihil, and proceeds to center instead on the figure of James Harrington,

who is in a special sense the central figure among the "classical republicans" of "the Whig canon," and trace from his time the descent of certain ideas, the uses that were made of them, and the changes which they consequently underwent.¹⁷⁸

At issue here was something like Machiavelli's doctrine of the popolo armato. Since all cities have enemies and live in the domain of fortuna, there exists some relationship between military and political virtu. In the Discorsi, Machiavelli raised the question whether Republics lasted longer when military power remained exclusively in the hands of the nobility or whether the arming of the populace could be beneficial, despite the internal threat that they might then constitute for those in power.

. . . Rome resolved upon empire, upon a daring attempt to dominate the environment, and consequently upon a virtu which would enable her to control the disorder which her own actions had helped to cause. She had therefore to arm the people, to suffer the strife caused by their demands for more power, and to make concessions to those demands. The arming of the plebians contributed to Rome's military greatness; the struggle between the orders to the consolidation of a mixed government; but some continuing disequilibrium, yet to be analyzed, to shortening the life of Roman liberty.¹⁷⁹

Pocock finds in Machiavelli an intrinsic connection between military expansion, the arming of the plebians and the vivere popolare. From this he inquires after the relation between the capacities of the soldier and those of the citizen. Should the individual be a citizen first and a soldier second, or should some citizens become professional soldiers? Under the Aristotelian theory of citizenship, the man who devotes all of his energies to the practice of any particular art and none to participation in public affairs is less than a

citizen: he is a source of weakness to his fellows. The man who devotes all his energies to war is worse than a weakness. He is an outright danger. The banausic artisan is pursuing a limited good to the neglect of the common good, but the soldier is even more likely to do this because his art is to exercise the means of coercion and destruction, rather than those of dialogue and deliberation. Hence it is important to restrict the art of war to the commonwealth in general rather than to a subset of its citizens. A citizen called to arms has his own place in the body politic and will fight to preserve that, but once the fighting has ceased, he will return to his private concerns and his civic life.¹⁸⁰ Hence,

Military virtu necessitates political virtue because both can be presented in terms of the same end. The republic is the common good; the citizen, directing all his actions to that good, may be said to dedicate his life to the republic; the patriot warrior dedicates his death, and the two are alike in perfecting human nature by sacrificing particular goods to a universal end. If this be virtue, then the warrior displays it as fully as the citizen, and it may be through military discipline that one learns to be a citizen and to display civic virtue. In the anatomy of the early Roman virtue given in the Discorsi, Machiavelli seems to depict it as built on military discipline and civic religion, as if these were the two socializing processes through which men learned to be political animals.¹⁸¹

In Pocock's reconstruction of these matters, it was James Harrington (1611-1677) who incorporated Machiavelli's notion of the armed citizen into his own mixed government theory, and who emerges as a central figure in seventeenth century English Whig political theory. Following the collapse of Tudor power in 1641 and the execution of Charles I in 1649, English politics--still, primarily, an upper class

politics--began to revolve around a clash of interests between country gentry and court aristocracy in London. The country interests tended to see themselves as independent their liberty sustained by landownership, and scorned their rivals in London as little more than retainers who depended upon the crown for authority and position. While the executive branch of English government was centered at court, it was Parliament which represented--through its electoral system--the rival interests of the country gentry. Tempers flared and debates grew heated as the attention of these two groups became fixed upon the question of the role that a standing army might play on English soil.¹⁸²

With the restoration of 1660 . . . supreme command of the militia--one of the casus belli of 1642--had been formally vested in the king; but the implication did not remain unstated that there should ideally be no other military force in the kingdom than this embodiment of the country proprietorship in arms. The parliamentary classes, determined to keep it in their own hands to ensure that there should be no repetition of civil war and armed radicalism, saw in the militia their ultimate guarantee of the power to do so, and the fact that they were well able to draw the connection between proprietorship and the control of the sword probably did more than anything else to preserve Harringtonian doctrine. But the alternative to the militia was now something which Harrington had expressly declared to be impossible: a professional army maintained in time of peace by an executive authority which did not settle it upon the land, but found fiscal means of paying it regularly. . . . "The guards are mercenary, and therefore dangerous" was the exclamation in the Commons of Giles Strangways . . .¹⁸³

What is clear from Pocock's account is that this clash of political interests quickly turned into a struggle over the balance of power in the English government. The squires feared the influence which the crown could come to exercise upon Parliament in its search

for funds to sustain the army it controlled. Individual members could be pressured or bribed or otherwise carried to vote for funds. To such a development they opposed all of their political skills and added the rhetoric of Machiavelli and of Harrington and the civic humanist ideology which insisted that the individual's political capacity depended upon his ability to bear, and to possess, the arms to be exercised in the public cause.¹⁸⁴

What is important for our purposes, is to note that the attacks upon court power were first launched in terms of protecting Parliament from the corrupt influences of the monarchy, should responsibility for defense come to rest in the executive branch. As the century wore on, the emphasis shifted, the question of the military receded, and attention focused on fear of Court corruption of the Parliament as a general phenomenon. At stake for the Whigs of this period, was their right to representation in the English government and the strength of the institution that embodied that representation:

The threat to freedom and property in this vision comes not from a baronial oligarchy, nor from a revolutionary army of saints, but from an executive disposing of powers which tend to reduce the independent and arms-bearing proprietors to dependence upon government. What may now be termed neo-Harringtonian doctrine is directed not against a collapsing feudal order, but against a bureaucratic and salary-paying state; not against the past, but against modernity. Where Harrington had thought the traditional king and parliament obsolete in face of the revolution of the proprietors, his heirs and successors sought to mobilize Parliament against king and ministers by invoking the independence of property against threats too modern for him to have considered.¹⁸⁵

For Pocock, the next phase of the neo-Harrington revival had

its nexus in the Country reaction against William III and his wars, which filled the middle and later 1690s and foreshadowed later polemics in the reign of Queen Anne. The rise of a second Country ideology now appears as the main event in the history of British political thought in the age between the English and American Revolutions.¹⁸⁶ Debate throughout this period continued to center on the question of Parliamentary sovereignty and its ultimate purposes, a debate complicated by such events as an increasingly mercantilist and commercial turn at Court and an increasingly conservative emphasis on old-fashioned virtue by the Country party. By 1711, the Country party had become staunch advocates of participation linked with citizen virtue, while those at Court found themselves standing for individual freedom from central government intrusion.¹⁸⁷

But this was a reversal. If the terms of the debates had begun to shift away from the questions of the virtue of the armed citizen and the corruptive influence of court on Parliament, the relative positions of the two parties began to shift as well. The older ideology of participation was beginning to give way to a new one that centered upon the notion of individual liberty. In institutional terms, Parliament began to represent not so much the ancient demand for participation as it did, through its laws and its struggles against the crown, the propertied interests of an individualistic mercantilism, empire and bureaucracy.¹⁸⁸ By Defoe's time¹⁸⁹ indeed, the Court apologists had begun advocating parliamentary supremacy in defense of this triangle of new commercial interests, while the

Country gentry had become thoroughly Tory and now identified citizen virtue with an anti-Parliament, anti-mercantilist reaction. This was the "stake in the country" which was used in the eighteenth century to defend the monopoly of political power by the landed aristocracy against the claims of mere wealth derived from banking or commerce. According to Pocock and Wood, these developments are not yet clearly understood and there exists nothing comparable to the work done on the American politics of this period for British political thought and history after 1688.¹⁹⁰

For students of American history and institutions, however, let us see what has been accomplished between the publication of Charles' Answers and the Glorious Revolution of 1688. First, the theory of mixed government, traceable back to Aristotle and Polybius, has emerged on English soil as the basic paradigm of politics and government about which debates over the legitimate distribution of political power come to center. Second, the doctrine of Divine Right has been so modified that political struggles, within the new mixed government context, themselves revolve about the particular question of the extent and nature of Parliamentary sovereignty. Third, Harrington's influence, with its emphasis upon virtue as opposed to corruption, and the powers of the assembly as opposed to those of the monarchy, constitute an injection of Machiavellian republicanism at a time when Opposition politics was able to embrace such views in order to further its own interests. Fourth, it was the emphasis upon the independence of the individual citizen, his freedom from retainership at

monarchical whim, which first provided the impetus for Country assertions of the doctrine of Parliamentary supremacy and was later modified to suit the needs of individual, i.e., commercial liberties.

The American Experience to 1776

The reversal of Court and Country positions and the shift of Whig theories from the Country Opposition to the Court Establishment which took place at the very end of the seventeenth century need not concern us here. In term of British history, they are the place to start looking for reasons why the Aristocracy managed to regain its position in British government and society after the revolution of 1641 appeared to have swept it away forever. From this it is possible to see why a conservative mixed government, with an extremely powerful House of Lords, was able to persist in Britain into the nineteenth century, and up to the passage of the Reform Bill of 1830.¹⁹¹

For our purposes, it is sufficient to stop with the radical Whig Opposition, the Country Opposition which owed so much to Machiavelli and Harrington. As the new emerging paradigm now sketched by Anglo-American historians has it, it was the political theory of the radical Country Whigs which had the greatest influence upon the Americans of later generations as they moved into their own political crisis of the 1760s, finally coming to oppose Parliament in England in order that they might elect a Parliament of their own in America:

As that century went on its way, Harringtonian and neo-Harringtonian ideas were absorbed into the opposition tradition of Whig political culture, a powerful current of thought whose effects can be traced in Europe and America as

well as in England and Scotland. In Constitutionalist terms this may be seen as a reaction to the restoration in 1657-62 of the form of government depicted in His Majesty's Answer to the Nineteen Propositions of Parliament. Where Nedham, Harrington and Neville had failed to show convincingly that a classical republic might be designed for England to take the place of the balanced constitution of king, lords and commons, Neville and the other neo-Harringtonians discovered a way of emphasizing the elements of republican balance in that relationship and asserting them against the spreading power of executive patronage and finance. The doctrine of the separation of powers, insofar as it was ever clearly articulated, rested on a Dunning-like assertion that the representative legislature was in danger of being, and ought not to be, reduced to dependence upon the influence of the crown; it was the independence of parliament's members that mattered, even more than the delineation of its powers. In this form, the doctrine became an oppositional interpretation of the parliamentary constitution, an alternative to that which stressed the sovereignty of king-in-parliament and the role of the executive therein, and a necessary precondition of the American Revolution and the Constitution of the United States.¹⁹²

Gordon Wood begins his review of the years immediately preceding the American Revolution by asking why the American colonists revolted against such a wonderfully constituted government that all of Europe in the Age of Enlightenment praised it. The English Constitution of 1688 had, indeed, mixed within a single government the several categories of politics that had been known to the Western world for centuries.¹⁹³ Pocock, as we have seen, has already supplied the clue. The Whig Aristocratic order attacked by the American revolutionaries was not an ancien regime, but a recent outgrowth of mercantile and patronage politics instituted in the search for social stability combined with expanding empire.¹⁹⁴ The authority of Parliament was overthrown because its appropriateness as a government had been denied to the satisfaction of Americans. A new political

society emerged from the American revolution which had been latent in the English tradition since the revolutions of the seventeenth century.¹⁹⁵ What mattered to the Americans, in the long run, was not the form of English government but its content in matters where their own interests as British subjects were concerned. They had rebelled against a parliamentary oligarchy run by a new Whig aristocracy,¹⁹⁶ an oligarchy which put its interests ahead of their own.

The nature of this rebellion, the motivations for it and the theories used to justify it were "ideological" in the sense that they revolved around political theories and values concerning the organization of the political community, the distribution of power and the role that the individual ought to play in civic life. As Bernard Bailyn has pointed out,

. . . The American Revolution was above all else an ideological, constitutional, political struggle and not primarily a controversy between social groups undertaken to force changes in the organization of the society or the economy. It confirmed . . . my belief that intellectual developments in the decade before Independence led to a radical idealization and conceptualization of the previous century and a half of American experience, and that it was this intimate relationship between Revolutionary thought and the circumstances of life in eighteenth century America that endowed the Revolution with its peculiar force and made it so profoundly a transforming event.¹⁹⁷

What were the values the Americans held, how did they come by them, and how did they mold them into the foundations of a new government, once the Revolutionary ferment had ceased? Here, if we are not brief to the point of being Laconic, we risk being prolix to the point of tedium. Bailyn's study of the pamphlets of the American

Revolutionary period led to his discovery of the crucial influence of Whig opposition thought on all that took place in the colonies after 1730:

The transmission from England to America of the literature of political opposition that furnished the substance of the ideology of the Revolution had been so swift in the early years of the eighteenth century as to seem almost instantaneous; and, for reasons that reach into the heart of early American politics, these ideas acquired in the colonies an importance, a relevance in politics, they did not then have--and never would have--in England itself. There was no sharp break between a placid pre-revolutionary era and the turmoil of the 1760s and 1770s. The argument, the claims and counter-claims, the fears and apprehensions that fill the pamphlets, letters, newspapers, and state papers of the Revolutionary years had in fact been heard throughout the century.¹⁹⁸

The emerging American political thought fell squarely in the republican tradition both with respect to the formal institutions it favored and the key concepts with which it sketched its understanding of political life.

Starting with enormous and nearly universal respect for the English constitution, the Americans emerged from the crucial period 1760-1775 with the view that it had been undermined by bribery and corruption and was rotten to the core.¹⁹⁹ Referring back to such classical republicans as Harrington, Milton and Sidney²⁰⁰ they evolved a conception of political life characterized by a fundamental and unending struggle for power between rulers and ruled.²⁰¹ The intellectual atmosphere, widespread throughout the colonies and encompassing individuals from all classes to a truly surprising degree,²⁰² combined with radical Whiggism and the language of intense

liberalism into an almost paranoic mistrust of power.²⁰³

The English settlement of 1689 had limited the powers of the monarchy and enjoined it to work with the Commons in carrying forward national policy. To the Whigs, this was a compromise acceptable only as long as the rulers promoted the public interest.²⁰⁴ In the background, held in reserve, lay the ultimate sanction against executive power: the people's right of resistance.²⁰⁵

"Peace is seldom made and never kept," Algernon Sidney had written, "unless the subject retain such a power in his hands as may oblige the prince to stand to what is agreed." Thus the people authorized their rulers to make and to execute laws to govern them, but always provided they retain a right and power to choose a sufficient number from among themselves, to be a representative body of the whole poeple . . . to have a voice in the making of all such laws, . . . and in the management of all the most weighty concerns of the state." "For, deprive us of this barrier of our liberties and properties, our own consent; and there remains no security against tyranny and absolute despotism."²⁰⁶

Here is the institutional crux of Whig theory: executive power must be checked lest it become overweeing. It is not sufficient that the powerful exercise their rule once that rule has received the assent of the people in principle. More than this is necessary. Active consent by the people is necessary, i.e., frequent, watchful participation by the people with their representatives in the conduct of daily affairs.²⁰⁷ The proper instrument of such participation in power, when not the people themselves, is a representative body chosen by them whose members are drawn from among them.

This was, in essence, the system of government which both the radical Whigs and the people of England held to be instituted in that

country. For the Whigs, participation in government was the essence of political or civil liberty. The Whig notion of political liberty had two aspects. First, when liberty is equated with a share in the government, then the liberty of the people is proportionate to the share the body of the people have in the legislature. Second, one measure of the extent of popular liberty is the strength of institutionalized checks on executive power.²⁰⁸ In other words, representation means nothing if the assembly can be overcome by the monarchs or the magistrates.

For the Whigs, then, popular liberty absolutely depended upon the strength of the Commons, the members of which "actually" had to represent them. This scheme made sense only insofar as it could be shown that there was, indeed, a popular interest generally opposed to that of the monarch. In practice, however, the Whig viewpoint was coming under increasing pressure in England. First, Parliament sat for a long time, made laws in a context free of constituency pressures, and as a result its members had begun to resemble magistrates themselves, independent of the popular will instead of subject to it. Second, and a related development, the doctrine of "virtual" representation--i.e., that the member of Parliament act in his constituency's best interests, but not as an agent of or attorney for those interests--was gaining general acceptance.²⁰⁹ This quiet evolution in English thought and practice the Radical Whigs splutteringly denounced:

. . . to the radical Whigs the emergent independence of long-tenured Parliaments seemed dangerous to the people's liberty. While it might be necessary for the people "to appoint a power in the State, to which they individually transfer their wills, dress it up in the insignia of sovereignty, and arm it with legislative authority," the radicals had no doubt that this "sovereign power was "no more than the representative of the people declaratory of their will, and bound to act in subservience to their interest." The idea that the representatives could do what they liked was "almost too monstrous to conceive." Can there be imagined a more striking absurdity than that the trustees should become independent of the person reposing the trust . . . the creature stronger than the creator?" Parliamentary actions, like the expulsion of John Wilkes from the House of Commons despite his repeated election, only aggravated this fear of the arbitrary independence of the House of Commons, a fear that had run through the radical English mind since the seventeenth century, "when," as Catharine Macaulay recalled, "the representatives had affected an entire independency on, or rather an absolute sovereignty over their constituents."²¹⁰

Adding to these fears of a Parliament cut off from the people--a situation which mooted the question of preserving its power in order to preserve its representative capacity--were new ones, prompted by the domestic political tactics of George III.²¹¹ Forced to cooperate with Parliament after 1689, His Majesty set about the commonplace task of working with allies within the body and trying to build a consensus for his policies. Both Alexander Hamilton and Franklin Roosevelt--not to mention a score of lesser American presidents--have struggled to do no less. But His Highness quickly ran afoul of His critics, and to those on the American side of the Atlantic, the ancient English Constitution appeared to be in serious trouble.

It appeared to those who clung to the original principles of the constitution and the growing tradition of separation of powers that the Crown, in its painful efforts to build

majorities through borough--mongering and the distribution of patronage, was in fact bribing its way into tyranny. "It is upon this principle," Americans concluded, "that the King of Great Britain is absolute; for though he doth not act without the parliament, by places, pensions, honours, and promises, he obtains the sanction of the parliament for doing as he pleases. The ancient form is observed but the spirit of the constitution is evaporated."²¹²

Was there, might there be a cure? The Machiavellian notion of "corruption" began now to play a major part in Whig writings,²¹³ applied not only to the various agents and organs of government but to the people of England themselves who theoretically had the power to act as a corrective. Once again, then, we see the theory that there exists a mutual relation between the moral spirit of a society and its constitution which appeared earlier in Aristotle's Politics and Machiavelli's Discorsi, and seems to have been derived by the English from the latter source.²¹⁴ Therefore, the Whig radicals advocated returning English government to its first principles by securing Parliamentary representation for themselves and resisting the encroachments of executive power. This was the context in which Americans viewed English attempts to shore up their empire after 1763. While the mother country grew old and haggard under the increasing strain of corruption, and made a conspiratorial drive for the entire subjection of the colonies,²¹⁵ the Americans revolted to secure a theory of popular government and political liberty which their contemporaries in England supposed them to have enjoyed for over a hundred years.

Such was the ideology in play at the time the Americans began

to move toward revolution. When we turn to the institutions they actually founded in the name of those general beliefs, we find that American practice can be divided into two distinct phases. First was that of the Whig period, in which the Articles of Confederation constituted the national government, and a number of state constitutions were drafted. These institutionalized Whig doctrines according to a variety of formulas. The second phase is that of Federalism. This was summed up in the United States Constitution of 1787, based upon Whig doctrines but with a powerful dose of institutional conservatism added to quell the new social instability that followed the widespread establishment of political liberty during the revolutionary period.²¹⁶

American Constitutionalism

On 15 May 1776, the Continental Congress passed a resolution calling for the exertion of "all the powers of government . . . under the authority of the people of the colonies," in effect abolishing the older colonial governments which had been established with the sanction of British authority. Wood considers this resolution to have been the real American Declaration of Independence.²¹⁷ The effect of this act was to electrify the Americans who rushed to their respective state capitals and energetically took up the problems of drafting new state constitutions. Indeed, such was the general animus against the power of a central government at this time, that the design of government at the state level was held to be the primary focus of

constitution-building. No one then suspected that the need would arise to set up a strong central government.²¹⁸

Independence ended neither the American habit of thinking in republican terms nor the focus on the central problem of government as they had long conceived it: for the Americans, republican magistrates were no more "representative" of the people than monarchs.²¹⁹ Power was still assumed to exist autonomously, and the task of the moment was to institutionalize means of checking its excesses. For Wood,

Only this unaltered Whig fear of magisterial power makes comprehensible the radical changes the Americans made in 1776 in the nature of the authority of their now elected governors.²²⁰

At stake was the problem of representation. Representing the people in the legislature was not all that simple. The English, as we have seen, held that every British subject, whether he had had a role in selecting those who sat in Parliament or not, was "virtually" represented there.

What made this conception of virtual representation intelligible, what gave it its force in English thought, was the assumption that the English people, despite great degrees of rank and property, despite even the separation of some by three thousand miles of ocean, were essentially a unitary homogeneous order with a fundamental common interest. . . . All depended on the conception of Englishmen as a single people with one definable interest.²²¹

This conception of a unified people with a single interest in turn made it possible to hold quite specific views about the nature of representation itself. As Burke told his constituency in 1774, Parliament was not

. . . a congress of ambassadors from different and hostile

interests, which interests each must maintain, as an agent and advocate, against other agents and advocates; but Parliament is a deliberative assembly of one nation, with one interest, that of the whole, where, not local purposes, not local prejudices ought to guide, but the general good, resulting from the general reason of the whole."²²²

Hence, for the English, it was not election that gave the member his representative power, but his mutuality of interests with the whole people for whom he spoke. Only this concept of virtual representation ultimately justified the binding of the whole people, whether they voted or not, or whether their particular representatives formed part of the majority or the minority within the chamber.²²³

If the Americans were to reject this conception, as we have seen that they did, what were they to put in its place? Wood notes that the colonists never decisively repudiated the concept of virtual representation.²²⁴ The Americans rejected the notion that they were virtually represented in Parliament because they saw a profound disparity of interests separating themselves and the English. With respect to their own domestic arrangements, however, the tune was subject to change. Having conceived themselves as a "whole people distinct from England"²²⁵ they proceeded to retain the notion that they were a "whole people" when it came to justify a system of representation based on an exclusionary concept of citizenship and a franchise limited to white males who held property in land.

Republicanism, with its emphasis on devotion to the transcendent public good logically presumed a legislature in which the various groups in the society could realize "the necessary dependence and connection" each had with the others. "Our situation requires their being firmly united in the same common cause" with "no schism in the body politic."

And this kind of legislature presumed a particular sort of representation--"A house of disinterested men" who "would employ their whole time for the public good."²²⁶

What was this but virtual representation? Any other view of the representative's role would turn the legislative assembly into a battlefield where numerous partial views would struggle for preference and destroy the homogeneity and harmony upon which republicanism rested. At least, this was how Americans approached the problem in 1776.

As frequently happens, however, political theories begin to evolve once the parties in question move from a position of conflict with an external enemy to one of arranging a distribution of power among themselves. Internal differences, first of mere opinion but very soon of interest, all insignificant during the revolutionary period, suddenly emerge--often with unanticipated force. Drawing upon their own disenfranchisement in Parliament, many Americans began to challenge the concept of virtual representation itself once it dawned on them that they might be on the losing end of divisions of power at home:

"A supposed or implied assent of the people is not an assent to be regarded or depended on." The people, it seemed obvious to many Americans, "must be represented actually--not virtually, and not just the colonists but people anywhere."²²⁷

According to this view, the popular consent that was so important to the workings of the British constitution seemed justifiable only if the people actually choose their own representatives. For it was becoming clear to many that "the elected are not representative in

thier own right but by virtue of their election." Hence the Americans found themselves emphasizing the sufferage itself as a necessary condition of legitimate representation. On this view, the interests of the various individuals in the community were so peculiar, so personal, that "the only ground and reason why any man should be bound by the actions of another who meddles with his concerns is, that he himself cboose that other to office."²²⁸ How far should such a precept be carried? It was difficult for some of the more radical to resist holding that the doctrine of actual representation meant that every individual in the community must expressly consent to every act of legislation.²²⁹

As has recently been pointed out, at the very time in the seventeenth and eighteenth centuries that the English conception of virtual representation was hardening and laying the theoretical foundations for parliamentary sovereignty, the Americans' ideas about representation were moving in a different direction, regressing in fact to an older medieval notion of the relationship between constituents and representatives. While the American experience was recreating the English medieval practice of attorneys or delegates specifically empowered by counties or towns to vote supplies to the rulers and present grievances from their constituencies, the English from sometime in the late fifteenth century, had gradually but increasingly regarded their members in the House of Commons less as delegated deputies from particular districts and more as spokesmen for the entire estate of the people.²³⁰

Thus, by 1769, the Reverend John Joachim Zubly had been able to confront the official English conception of virtual representation by arguing that "every representative in Parliament is not a representative for the whole nation but only for the particular place for which he hath been chosen . . ."²³¹ This doctrine was eventually to

be enshrined by the Constitution of the United States in the division of legislative power among representatives elected by local districts of the several states. But it should be clear that within the local district itself, "actually" represented in the American Congress, something like the doctrine of virtual representation must apply.

The controversy over representation can never be settled. Once some body is instituted to stand before the people and legislate in their name, some misalignment between the intentions of the one and the deeds of the other will always occur--unless it can be shown that "the people" are one and have but a single interest. With respect to external forces or threats, such as those of a tyrant or an enemy beyond the borders of the state, the unity of popular interest is relatively easy to pronounce in theory and attain in practice. The difficulties come with respect to the formation of a political consensus about matters of the internal distribution of goods, and the simple fact that as soon as discriminations appear in the determinations or applications of law, divisions arise among those to be affected. These must be overcome somehow if the political process is to embrace all of the body politic, without losing the allegiance of its several parts. We will see this formal dilemma recur again and again in what follows: not only does the fundamental disparity between the general and the particular appear in local district politics, it has been a perennial difficulty for the Congress itself as it has struggled to muster internal consensus while exercising the representative function in the governance of a heterogeneous population. Wood

makes it quite evident that revolutionary America came perilously close to absolutely breaking apart over these political contradictions.²³²

. . . ironically, those who were most radically Whiggish, most devotedly republican, were at the same time most committed to the characteristics of the concept of actual representation--equal electoral districts, the particularity of consent through broadened suffrage, residence requirements for both the elected and the electors, the strict accountability of representatives to the local electorate, indeed, the closest possible ties between members and their particular constituents--characteristics that ran directly counter to the central premises of virtual representation and all that they implied about the nature of the body politic. In the years after 1776, without necessarily or clearly grasping the implications of what they were saying, many Americans would increasingly press for a fuller realization of these characteristics of actual representation and thereby threaten not only to undo the intellectual foundations of their theory of politics and their republican experiments but also to expose the whole representational process for the fiction that it was.²³³

Be these things as they may, the controversy over representation persisted. Despite the fact that small towns throughout the United States pushed for their right to be free of regulation by state governments during the 1780s, the ideal of an independent and deliberative legislature, attending to the common interests of the state, would not die. "Submerge all particular and partial interests into the central good" was still the common cry.²³⁴

When we turn to a review of the actions the Americans took as drafters of constitutions, it is clear that the mixed government theory--as it had been interpreted by the radical Whigs--had something of the status of a basic postulate. In most of the states, it was so axiomatic, so much a part of the Whig science of politics, that it

went largely unquestioned.²³⁵ The immediate task, then, was to refine the conception and purge it of the errors and corruption which had led to its undoing in England. The central question was squarely posed by John Adams in his Thoughts on Government, published in 1776.²³⁶ What had to be determined was the "mixture" of the government or, in our terms, the nature of the public space and the role that it would play.

Adams had proposed a balance between contending powers, i.e., between executive, Aristocratic and popular interests. Throughout the colonies, however, scores of alternative proposals poured forth, each with its particular scheme for arranging the balance, and each possessed of a degree of radicalism that could be measured by the extent of its author's confidence in the people.

"That a mixed government is the best that can be accepted in the respective Colonies" was thus the common sentiment of most constitution-makers in 1776. "The people will naturally be inclined to that which is most like what they have always been used to," that is, a magisterial order together with "two orders in the body of legislation." Yet obviously since the orders of their new republics "now are to derive their authority from the people only, and in a different manner from what has been usual; it therefore requires the utmost wisdom . . . to constitute them, so to balance their powers as effectually to secure the liberty and happiness of the people forever." Indeed, it required more wisdom than most Americans at first apprehended, for, however confident the Commonwealthmen had been over the possibility of erecting a mixed republic, it was not to be a simple matter to realize in the American environment; and the Revolutionaries, without clearly perceiving the consequences of what they were doing, were soon compelled to make changes in the constituents of their mixed politics that would have enormous repercussions on their understanding of politics.²³⁷

Among the changes they actually instituted, the most evident was the near universal elimination of the governor's role in state

legislation. In 1776, South Carolina was the only exception. Yet the "Aristocratic" element, so important to the English, continued in general favor. The Americans, wanting nothing to do with hereditary aristocracy, nonetheless believed in a "natural aristocracy" consisting of men of outstanding merit, wisdom, or ability. These were to be seated in the upper houses of bicameral legislatures, and to be chosen by the people. Just what this attempt to "mix" the aristocratic element into the state portended was little understood at the time,²³⁸ but it was clear enough by 1780 that the concept of a Senate was in for trouble. Either a distinct social order of men was to be brought into being--which all the revolutionaries had opposed--or the members of both houses would be chosen in the same way from a single body of citizens. In that case, what sense did it make to have a Senate? Two homogeneous branches would not make a mixed government.²³⁹

The dilemma that had confronted the royal officials was coming back to haunt the Revolutionaries. The people in the new states seemed to be electing the same kinds of persons to both houses of the legislatures; thus creating a homogeneity of interest between the two branches and destroying the purpose for instituting a mixed polity. One, but not the only, solution to the problem lay in the special qualifications that most of the framers had provided for members of the senates, and it was soon exploited.²⁴⁰

The essence of "special qualifications" turned out to be property. Although wisdom and integrity were difficult to measure, property was not. In property Americans found a means by which their "Senatorial part" could be clearly distinguished. Wood notes the obvious: "The meaning that many had intended to give to the mixed

polity was now set off in a radically altered direction."²⁴¹ While profoundly ambivalent about this new emphasis on wealth, such men as Jefferson and Madison had been baffled by the apparent inability of the people to perceive the truly talented. This shift, then, pushed Americans toward a change in their basic assumptions about the nature of their society, a change that was to have serious repercussions for their ideology of republicanism.²⁴² Property was now becoming an interest in its own right, to be specially represented in the legislature. Wood draws the implications:

. . . by the 1780s Americans were emphasizing more and more the "different and discordant interests" existing "in all societies," the various groups and parties--creditors, debtors, farmers, manufacturers, merchants, professionals--who could "for convenience" all be subsumed under "names, invented long ago, the democratic and aristocratic factions," or better, those who possess "the rights of persons" and those who possess "the rights of property."²⁴³

The turn toward property had numberless consequences, not the least of which was that it was now possible to pollute the theoretical notion that the people were a unity with the acrid assertion that they actually embodied separate and rival interests. In 1784, Benjamin Lincoln, the Revolutionary General, set out a justification for bicalism in the 1780 Massachusetts Constitution that opposed the Revolutionary assumptions of 1776. Turning his back on the ancient distinction between the few and the many, he substituted instead the notion that society consisted of a vast difference of interests, interests which contain the seeds of its destruction if their influence is unchecked. In republics, such interests may be traced to

the rights of persons and of property. From this he drew what can only strike us as a bizarre conclusion: to prevent the dissolution of the republic, the rich must be specially protected in the Constitution.²⁴⁴ It was this stark dichotomy between persons and property that led to the widespread concern for "the rights of a minority in danger" from "a majority . . . united by a common interest or passion."²⁴⁵ This theme shall be repeated.

By separating "the two cardinal objects of Government, the rights of persons, and the rights of property," rights that most Americans in 1776 had assumed "would be more and more identified," and by assigning each to a single house of the legislature, the Americans in a fashion had solved the nagging problem of constituting bicameral legislatures; but in so doing they had perverted the classic meaning of mixed government, which had placed honor and wisdom, not wealth and property, in the middle branch of the legislature, and had explicitly violated the homogeneity of interests on which republicanism was based.²⁴⁶

But property and a diversity of interests did not comprise the sum of corrosive issues. Wood reviews the history of revolutionary Pennsylvania. In 1776, radical Whigs prevailed at the Pennsylvania convention, and explicitly disavowing the mixed government form, ratified a constitution with but a single House. The educated, the upper classes, did everything in their power to undermine the new government, and in the process of attempting to rally popular opinion to their viewpoint, were compelled to lay out the social basis for a balanced constitution with unusual starkness and comprehensiveness and thus were even driven to call into question the egalitarian nature of American society. A simple republic, the opponents of the 1776 Constitution argued, was impossible in America because of "the great

distinction of persons, and differences in their estates or property.²⁴⁷

Many Americans now began to ask questions: was the received mixed government theory compatible with Whig republicanism? Or not? Did the bicameral legislature in fact recreate the problems they thought they had settled in 1776? Was the new American society to be egalitarian? Could it be, if its institutions reflected a heterogeneous political and social order? Finally, if Whig republicanism rested on the assumption that the people have but a single will or interest, why need the legislature have two houses? Upon reflection, many agreed with Condorcet's observation that "the representatives of a single nation naturally form a single body . . . [hence] there was no place for a Senate in an egalitarian republic."²⁴⁸

Pennsylvania was the only state which consciously and deliberately rejected the mixed polity and which at the same time possessed a sizable and articulate opposition compelled to defend comprehensively, as no other Americans quite had to do, the merits of a mixed republic. The result was the most lengthy and expanded argument over the nature of the upper house in American history, an argument that began with the traditional defense of the mixed British constitution and ended with an entirely new and revolutionary conception of politics.²⁴⁹

The Whig parties generally assumed that there was but one rank of men in America, and therefore there should be but one representation of them in government. In 1777 one Benjamin Rush, in a comprehensive criticism of the Pennsylvania Constitution of 1776, advanced a host of arguments in favor of bicameralism of which one was to become crucial. A single legislature, said Rush, was dangerous to liberty

precisely because it was unrestrained. Predicting that a single unchecked assembly would become a frightening arbitrary power, "Rush was raising a bogey that could strike terror into the heart of a radical Whig."²⁵⁰ Since the Whigs took it that power anywhere was dangerous to the people and their liberty, the Pennsylvania radicals had written a host of checks on the assembly into their constitution. Rush pointedly asked why such devices were necessary. Was not there a Whiggish need for an upper house--i.e., for a double representation of the people so that one could check the other? On this argument, which abandoned the rhetoric of property and merit, the upper house was to be only a Whiggish rein on unchecked power.²⁵¹ What this amounted to was a complete disavowal of the traditional defense of mixed government as a structure that reflected a diverse social order. Here was a reversal as profound as that which had reordered the positions of Court and Country parties in England a hundred years earlier. When the Pennsylvania Republicans held that there was now to be a homogeneity of interests between the two houses, they expressly defended what other Americans had seen as the principal fault in the bicameral system.²⁵²

At stake in all of this was the issue of sovereignty. With the conclusion of peace with England, the Americans found themselves living under the loosely structured Articles of Confederation, and became more eager than ever before to affirm local politics over central government and "to oppose all encroachments of the American Congress upon the sovereignty and jurisdiction of the separate

states."²⁵³ At the same time, however, opponents of this view gained ground through the Republican or Whig denial that separate state governments could really speak and act for "the people." This put state governments on the defensive with respect to the question of the people's sovereignty as they had never been with respect to the Congress.²⁵⁴ As the post-revolution period continued, general ambivalence about the entire dilemma of representation increased to the point where even Whig representative legislatures were brought into question. A gap was opening between the people at large and their representatives.²⁵⁵

This problem came to a head in a series of debates over the power of the Senate to pass money bills which arose in the Maryland House of Delegates in the winter of 1786-1787. One side held that the Senate had such a right and did not have to wait for binding instructions from the people before acting. The other side disagreed. Out of the ensuing debate over instructions a new doctrine of representation began to emerge.

The legislature are the trustees of the people and accountable to them," asserted William Paca, who assumed the principal burden of defending the instructions. All the great Whigs--Locke, Molesworth, Trenchard, Hampden, and Sidney--had upheld this trusteeship relation between constituents and representatives. Therefore, the "people only" could be "the constitutional judges of legislative or public oppressions," best exercised through their right of instructing. The "question" being debated here in Maryland, said Paca, was "not upon the right and force of the national voice communicated and declared to the legislature by memorial, remonstrance, or INSTRUCTION, from every county, city, and borough, or the majority of the nation." Thus, Paca concluded, the people-at-large through this broadened use of positive instructions on general questions of public interest

were in fact capable of doing what no eighteenth century thinker considered possible for so large a society, to participate in the exercise of legislative authority "personally" as well as "representationally."²⁵⁶

The great theoretical weakness in Whig Republican theory is its failure to recognize that "the people" are not homogeneous, but riven by economic, class, and geographical distinctions. This oversight undoubtedly arose out of the relatively simple stratification of late medieval and renaissance English society into three primary social orders which could be easily reflected into the mixed government division of monarch, peerage and commons. Transferred to America, however, the old theory now came under a host of historically unprecedented pressures, as we have seen.

First, English politics, clear into the nineteenth century, remained a restricted realm, separated from truly broad-based participation by lines of property and class. In the United States, however, not only was the franchise widely extended, but popular participation in a host of formally constituted legislatures and ad hoc political gatherings like constitutional conventions was the norm for the overwhelming majority of white males who lived there. Second, the animus against monarchical tyranny did not die away with emancipation from the monarch. Instead it was translated into a deep and growing suspicion first of executive power, but later of all central or governmental power in general. It was this fear that lay behind the continual conflicts over representation and the constant theoretical tension that held between those who advocated popular sovereignty and

the active consent of the people in every legislative decision, as opposed to those who attempted to uphold the theory of the common interest and the need for elected agents of the people to make the day to day decisions of government. Third, a diversity of geographical situations and political traditions imbued the various parts of the American populace with concretely distinguishable interests such that, gathered together in central public spaces such as the Continental Congress or the various state legislatures, the centrifugal forces of the emerging society impinged upon its politics with the effect that the common interest--taken for granted by everyone in the revolutionary period itself--became increasingly elusive. Wood shows that these tensions increased in influence throughout the 1780s, and finally resulted in a radical transformation of the ideas that Americans held about popular sovereignty, the nature of legislative power, and their theories of politics in general.²⁵⁷

One vexing question arose again and again: if sovereignty was essential to a republic, how could it be derived from the people and constituted such that its exercise would not degenerate into abuse and license? The search for a remedy--i.e., a way to control and restrict the power of elected representatives--dominated the politics and constitutionalism of the Confederation period. Hence the question of instruction continued to hang like a brooding presence over the general issue, for here it seemed lay the only means of checking legislative power. As usual, however, absolute adhesion to this view prompted sympathizers and opponents alike to draw the consequences: if

the legislature did not possess the full power of the people to do anything it wished for the good of the state, if sovereignty did not in fact reside there, then there could be no logical way to prevent legislative authority from passing completely to the people at large.²⁵⁸

But again, this turned out to mean a victory for localism in practice and the triumph of the particular over the general. Writing in his own *American Magazine* 1787-1788, Noah Webster mounted a cogent attack on the notion of instructions that clarified the issues:

The practice of giving binding instructions to representatives, said Webster, rested on the belief "that the constituents, on a view of their local interests, and either with none, or very imperfect information, are better judges of the propriety of a law, and of the general good, than the most judicious men are (for such generally are the Representatives) after attending to the best official information from every quarter, and after a full discussion of the subject in an assembly where clashing interests conspire to detect error and suggest improvements." In truth, said Webster, instructions "dictated by local interests" negated the very idea of representation: "They make the opinions of a small part of the state a rule for the whole--they imply a decision of a question, before it is heard--they reduce a Representative to a mere machine, by restraining the exercise of his reason--they subvert the very principles of republican government." Since all laws were designed for "the true interest of the whole state," and not merely for "a particular part," they "must be founded on the best general information: the people themselves have no right of consent to a law, without this general information," or "on a view of a local interest," or, "without hearing the objections and arguments suggested by every part of the community, which is to be affected by that law." Therefore, "if the collective sense of a state is the basis of law, and that sense can be known officially no where but in an assembly of all the people or of their Representatives . . . , where is the right of instructing Representatives?" The local sense of the people, "taken in small meetings, without a general knowledge of the objections, and reasonings of the whole state," can never produce the general good; each district is but "part of

the state," and not competent to judge fully of the interest of the whole."²⁵⁹

In Wood's synopsis, the entire period between Independence and Annapolis was one of crisis, confusion and near political breakdown. Literally hundreds of voices drift in and out of his account, alternately defending and attacking "actual representation" or central state power respectively. It seems that the Whig radicals had gained the upper hand in most of the state legislatures of the time, written state constitutions that gave those legislatures sweeping grants of power, and then proceeded to "instruct" them through a complex political process that reflected the will of the popular majority on a host of particular issues. The result was an experiment in Whig republicanism which, in the eyes of most Americans, ultimately failed to function as effective government. Alternately, paralyzed by faction and charging gamely into the thickets of heated issues, these legislatures enjoyed a tenure that proved to be short lived, but which provided Americans with an historical experience that profoundly altered their views about politics, government and the art of the possible in collective life. The debate, then, focused increasingly on the nature and extent of legislative power, and its ultimate, practical result was the Constitution of 1787.

How were the representatives to be drawn from the people? Who should sit in the chambers of the public space, and what ought they to do once so seated? Wood characterizes the fundamental debate as having taken place between Whigs, for whom the right to rule existed

only so long as the people's good was promoted by representatives drawn from them, and republicans who emphasized talent and merit when determining who should hold positions of magistracy.²⁶⁰ The context of this debate was provided by the powerful legislatures created by the state constitutions of 1776; bodies filled with men sent directly from the hinterlands by popular acclaim. These individuals were of a sort who could never have gained power before the revolution had elevated them to high positions, and their presences in the legislatures not only irked those who came from traditional elite backgrounds, but let directly to changes in legislative behavior and legislative issue that set the republicans' teeth on edge. It was this emerging conflict over social position and privilege that demonstrated with absolute clarity that "the people" were rapidly proving themselves to be a multiplicity of particular interests. For the republicans, who had anticipated no such thing, an air of corruption hung over the young republic:

"Formerly, political distinctions originated in the prevailing sentiment of patriotism--in the present times, they seem only relative to particular principles of interest," to occupations, credit, debt, or religion. Such divisions among the people, it was argued, were obvious indications of selfishness and infirmity in the society. "Parties are the dangerous diseases of civil freedom; they are only the first stage of anarchy, clothed in mild language."²⁶¹

Political conflict centered on the issue of state legislative behavior, where Whig radicals had come to dominate in case after case. Not only did these bodies begin to pass laws affecting such crucial relationships of property as those involving creditors and debtors,

but they began to pass great quantities of bills which they thereafter proceeded to alter without surcease. This practice played havoc with the law and horrified the better educated: persons in civil administration scarcely knew what the law was, and such luminaries as Madison began to decry a lack of "wisdom and steadiness" in legislation.²⁶² All the states, it seemed, were being smothered by a multiplicity of laws, nagging laws, niggling laws, laws which tended to promote the rights of men over the rights of property, laws which embodied the composition of the legislative majority on a given day only to be changed to reflect the composition of a different legislative majority the following week. Soon the law itself began to become a contemptible thing in the eyes of those from whom it traditionally should have commanded respect, and a healthy disregard for it began to spread throughout the former colonies.

Nor was this all. For Madison, the representative assembly in the several states was not only corrupting the law; it was "drawing all power into its impetuous vortex."²⁶³ All the functions of government, it seemed were ending up in the legislative body. The student of Aristotle will not be surprised by the reaction to such developments: the American suspicion and jealousy of political power that had once been directed against the Crown now emerged with reference to the various state legislatures,²⁶⁴ and the educated classes began a tightly orchestrated public campaign to channel the growing popular animus against power into a force that would return privilege to influence and reason to government. From the standpoint

of classical political theory, "the citizens," in their various public spaces, had begun to administer an unmixed polity, in which the interests of important groups or classes were being systematically ignored. Those who were excluded set about agitating for change.

The upper classes began to dispute the principle of unchecked popular sovereignty, and noted that it might not always be the case that the majority who rule in republican governments are the safest guardians of both public good and private rights. "The people," it seemed, were as capable of despotism as any prince; and public liberty was no guarantee after all of private liberty.²⁶⁵ What Americans were learning was that the equality of social and economic conditions which they had supposed themselves to enjoy in 1776 did not exist after all, and that the excess of power wielded by majorities in the state legislatures had led to abuses of authority that violated centuries of property law and legal tradition. What Shay's rebellion pointed out was that the dispute involved no simple class conflict between popular representatives of the poor in state legislatures on the one hand, and elitist American gentry on the other, for this was an outbreak by New England farmers who lived far from the centers of power and wished to remain unhindered by them. Confronted by such an uppity challenge, the Whigs in Boston made it clear that when all was said and done, the doctrine of virtual representation would prevail:

The rebels, announced the town of Boston, must obey the majority. "Let the majority be ever so much in the wrong," it was the only remedy for grievances "compatible with the ideas of society and government" The insurgents, argued a publicist, must rely on their elected representatives for the

redress of wrongs: "Can human wisdom devise a more effectual security to our liberties?" So relieved by the rebellion were many social conservatives that some observers believed the Shaysites were fomented by those who wanted to demonstrate the absurdity of republicanism.²⁶⁶

As the young country moved into the 1780s the crisis atmosphere increased. Doubts about the success of the republican experiment began to spread. Republican state legislatures continued to sow seeds of resistance. The writings of Americans in the eighties became a series of self-diagnoses, an intensive examination of the sources of political decay characteristic of the age of Gibbon.²⁶⁷ On the critical accounts, what seemed to be amiss was that private interest had succeeded in capturing the legislatures, and "thus the whole of that care and attention which was given to the public weal is turned to private gain or self preservation."²⁶⁸ Public discussions and intellectual dialogue became concerned with the problem of citizen virtue, and the rise of litigiousness among the populace was decried in press after press. Behind these maneuvers, however, as we have indicated, something of a class conflict simmered over ranks of social and economic degree. This, as I have indicated, was not a simple conflict, and it would take considerable research to explore its contours and assign the contending parties their respective places. Nonetheless, it seems that there was a general popular animus against government, a popular majority which was, at times, willing to use the instruments of government to despoil the privileged of some of their property, and the privileged themselves who for a variety of reasons held a more positive view of the possibilities of government than did

many of those who looked up. Perhaps those who resented government acted as a swing group between the other two, but I would be surprised if a thorough exploration of the social and political forces involved were to yield any such simple conclusions.

What Wood seems to be saying, however, is that the cumulative acts of the various state legislatures, the combined strengths of those who favored no government and those who were disfavored by such government, and the writings of the *intelligentia* all coalesced throughout the colonies to strengthen a wave of reform which swept the states in the early 1780s. Wood offers the Massachusetts Constitution of 1780 as an example of the changes that went into effect. On balance these consisted of trimming the powers of the legislature, and strengthening the hand of the executive branch. It now seemed unquestionable, for example, that the governor should participate in legislation through some sort of revisionary power.²⁶⁹ What we see starting to emerge, then, is a doctrine of checks and balances:

While the magisterial power was to be invigorated, the authority of the legislatures, which, as many now saw, had become "wholly undefined and unlimited, so that neither the people know the extent of their privileges, nor the legislatures the bounds of the power," was to be correspondingly reduced. In his draft for a new Virginia Constitution Jefferson explicitly denied the legislature "the power to infringe this constitution," "to abridge the civil rights of any person on account of his religious beliefs," and to pass certain specified acts, including bills of attainder and ex post facto laws. The constitutions themselves, reformers argued, must be made more fundamental, drawn directly by the people and thus rendered unalterable by ordinary legislatures.²⁷⁰

Once put into practice, such proposals abruptly curbed the

power of popular sovereignty as it was then being exercised by the lower houses in the state legislatures. As such, they were bitterly resented and resisted by those who saw in them a complete betrayal of the principles of 1776; the reforms appeared to many as insidious devices to return to the aristocratic and monarchical tones of the former colonial governments.²⁷¹ Wood notes that the raising of such reform proposals denotes the onset of fundamental change in American conceptions of constitutionalism itself.

By the 1780s such had been the evolution of political ideas that it was no longer self-evident, as it would have been a decade earlier, that the Massachusetts Constitution of 1780 was less popular, less libertarian, less democratic, than the Pennsylvania Constitution of 1776.²⁷²

This was a crucial development. What is emerging is a conception of "constitution" closer to that of Aristotle than to the notion embodied in the English tradition. The Aristotelian constitution is a set of fundamental rules according to which political activities are carried out. These rules are, in a sense, the form of political life, and specific political decisions and the daily round of political activities are its content. While constitutions are, and must be subject to change, such changes and the processes through which they occur, are extraordinary. The English constitution, on the other hand, while also not something which has undergone effortless or easy change, can nonetheless be altered either by acts of legislation or through the slow accumulation of precedent or even by royal proclamation or mis-statement as we saw in the case of Charles' Answers. The Americans of this period, having begun with the English notion of a

constitution, had made such structures alterable by legislative act when such acts were carried out under special procedures. The argument used to justify this was usually made in terms of the notion that it was the assembly or legislature which embodied the popular will of the sovereign people. Having once put forth the notion that the Assembly's power was not the extension but the antithesis of popular liberty, opponents of the 1776 Constitutions attempted to alter those documents by removing them from legislative purview. If there was even the slightest possibility that assembly power might lead to a despotism by popular majorities, and it could be shown that a constitution was a set of fundamental rules for structuring the political order, then the powers of the legislatures could be legitimately restricted to spheres that had been constitutionally defined in advance. Hence in Pennsylvania, opponents of the assembly held that it could not change the constitution, saying that "Whenever the Assembly assume the exercise of powers not granted them, they act arbitrarily and without authority."²⁷³ The upshot of this was to be a profound change in the structure of linked concepts that bound together their views of political life. "Sovereignty," "constitutionalism," "representation," and the proper role and extent of government were shifting their meanings simultaneously:

Because of what was being done to the concept of representation in these years--the breakdown of the mutuality of interest between the people and their delegates and the consequent reliance on suffrage as the main criterion of representation--it was becoming entirely comprehensible to regard the electoral process itself as the foundation and measure of representation. Therefore all elected officials,

not just the houses of representatives, were in some way representatives of the people, "other depositaries of the devolved sovereignty of the people." There seemed now to be no essential distinction separating the lower houses of the legislature from the other elected parts of the government.²⁷⁴

The Assemblies were losing their special mandates. Political power was being homogenized in terms of its representing constituencies that were subsets of the whole. Hence, on the basis of the emerging gulf between populace and government, the powers of the latter would be restricted first and later divided up to make the application of those powers more difficult. All governmental officials, whether executive, judicial or even legislative were ultimately held to be magistracy. Upon this development hinged the concept of divided sovereignty that would be institutionalized in the Federal Constitution of 1787. If all elected officials were magistrates, and if some of them, in the form of the legislatures, had evinced a tendency to exceed the limits of justice in the laws that they passed, then it was reasonable to divide the sovereign power and limit the reach of any particular part of the government.

It was in fact only in the years after 1776, when the problems of politics seemed new and different from what had been expected, that the idea of separation of powers assumed major significance. Only in these years was the separation as stated in the early constitutions--"that the legislative, executive, and judiciary departments, ought to be forever separate and distinct from each other"--made truly reciprocal by those seeking new justifications for strengthening the magisterial parts of the government at the expense of the legislature. Seizing upon this relatively minor eighteenth-century maxim, the constitutional reformers in the years after 1776 exploited it with a sweeping intensity and eventually magnified it into the dominant principle of the American political system.²⁷⁵

What we find here, then, is a complex set of constraints upon the actions of popular representatives. The public space is restricted so that the political order can be held to a limited range of issues and acts. The public space is limited to prevent it from undertaking actions that interfere with the private or the social. In effect, this amounts to a return to the mixed government form after a brief experiment with unchecked assembly power--but now, as we have seen, the status of the underlying rules of the constitution has changed. While the details of the new arrangements are historically specific, it is clear that the actually existing differences in social and economic standing of the various parts of American society were now to be instituted in the mixed government form adopted by the Americans at Annapolis. This is consistent with the recommendations of Aristotle and Machiavelli.

Yet the differences between the earlier institutional practices and the new ones of the Americans were drastic. All branches of American government were to be elected, and no matter how many steps were interposed between the people and the higher orders of government, all were given roots in popular sovereignty. Authority and sovereignty were held to reside in a populace which made temporary grants of power to selected individuals and groups who were empowered to act in its name. The powers of the representative agents were to be restricted, and their courses of action so arranged that concerted movement among them became nearly impossible unless proceeded by compromise. This not only assured that the various social orders

would have influence on the acts of authority, it made it a virtual certainty that no social order would use its grant of power to act alone against the others.

These were among the general notions adopted at the Annapolis convention which was to close the period we have just reviewed. They show that there is more than one way to bring about the processes of integration and compromise necessary to the function of a public space politics when that kind of politics is part of a mixed government. What we have seen emerge here is a radical transition from the notion that the common interest can be held to exist because there is no "schism" in the body politic, to an acceptance of the practical difficulties of finding political compromises which will allow a heterogeneity of political interests to move forward together.

In a sense, the U.S. Constitution would reflect the notion that conflicting interests are present in the polity and that compromises between them are possible first if the sphere of application of political power is limited and second, if the potential exercise of that power is formally divided among those interests. Therefore, the public space of the Congress was not to be the repository of an undivided sovereignty, any more than the Consiglio Grande of Machiavelli was to reign unchecked. Unchecked popular assemblies, Americans had seen, led to abuses of legislative power. To this they responded with what we can see was an "Aristotelian" compromise between competing class interests and a return to the mixed government form--with the crucial distinction that all now depended upon the franchise and the

fact that those in power were to be selected by those subject to it.

The Constitution of 1787 would carry forward the Whig anti-pathology to governmental power by instituting a set of limits upon what could be defined as its legitimate sphere of activity, and then provide an institutional structure designed to ensure that it would not overstep those limits. While this protected privilege, and ensured the social positions of what passed for aristocracy in the America of the time, it also served to prevent the reappearance of the civil strife that had threatened the states in the years immediately following the revolution. In this sense then, it can be seen as a political compromise in the Aristotelian sense. I think therefore, that the period of American history between the attainment of Independence in 1776 and its closure at Annapolis in 1787 could serve as a clear example of the kinds of unmixed politics which Aristotle enumerated in Book III of the Politics, and the Constitution of 1787 as the kind of compromise between all parties that he recommended. If we apply Aristotle's test of a properly mixed government, i.e., that no party to the agreement would change the constitution even if given the opportunity to do so, we find that the founders of the American republic forged a compromise which was to last until 1860.

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- ²W.L. Newman, The Politics of Aristotle, 4 vols. (Oxford: Clarendon Press, 1887-1902). This is not only the standard edition of the Politics but the best commentary upon it in any language. Most commentators on this aspect of Aristotle's work refer to it.
- ³Werner Jager, Aristotle: Fundamentals of the History of His Development, trans. Richard Robinson (Oxford: Oxford University Press, 1934).
- ⁴William Charlton, Aristotle's Physics, I, II (Oxford: Clarendon Press, 1970), p. xiii.
- ⁵Physics, 184b25-187a11. Unless otherwise noted all translations from Aristotle's works are from: W.D. Ross, ed., The Works of Aristotle Translated Into English, 18 vols. (Oxford: Oxford Univ. Press, p. 28).
- ⁶Metaphysics, 1003, 5-10; 1017a22, Physics, 190b30-35.
- ⁷Categories, Unpublished translation by S. Marc Cohen and Gareth B. Matthews, Department of Philosophy, University of Massachusetts, Amherst, Massachusetts, 1979.
- ⁸Posterior Analytics, 89b32; Topics, 1,7,5-10; Met. 992b17-993a10; 1088b35-1089b33.
- ⁹Politics, 1261b20ff. Aristotle doesn't make the Cartesian shift at the level of perception, he makes it at the level of language. The object does not present a shifting plurality of perspectives in observation; but men speak about it in many different ways.
- ¹⁰G.E.L. Owen, "Aristotle On the Snares of Ontology," in Remford Bamborough, New Essays on Plato and Aristotle (London: Routledge and Kegan-Paul, 1965), pp. 69-95. This article has good general discussion and complete bibliography on the problems of the homonymy of "is."
- ¹¹Ibid., p. 72.
- ¹²Ibid., p. 95.
- ¹³Prior Analytics, 46a3-28.

¹⁴The elementary distinction was to continue as fundamental to philosophy well into the Enlightenment. See, for example, Immanuel Kant, Groundwork for the Metaphysics of Morals, ed. and trans. H.J. Paton (New York: Harper Torchbooks, 1964), p. 55.

¹⁵Topics, 145a15.

¹⁶Met. 1025b18ff; 1026b4.

¹⁷Newman, p. 179.

¹⁸Met. 1026a13.

¹⁹There are many doctrines of Aristotle which I cannot stop to examine here in any detail, or compare with the superiority of wisdom which the intervening 2300 years have granted us. But no-one who has survived a reading of Kant would accept this as valid distinction between practical and theoretical science.

²⁰Newman, I, p. 6.

²¹E.N. 1139a11.

²²Newman, I, p. 8.

²³Ibid.

²⁴Met. 1032b6.

²⁵Ethics. 1094b14-19. ("Science", then, is homonymous: we do not, we cannot, always use it in the same sense to denote the same kinds of activity of knowledge. A "science" of logic, a "science" of nature and a "science" of politics are quite different.)

²⁶Met. 1078a9-11.

²⁷N.E. 1104a5-10. Apparently, "what is" depends in part upon what those living in it tell you it is. In Books 6-8 of the Politics Aristotle shows that the social conditions in a community may prohibit the introduction of certain forms of Constitution, and that this limit may be a function of the self-interpretations of the participants involved. Contemporary social science stumbled across this insight comparatively recently, and is now in the process of developing it to a far greater degree than Aristotle. What the participants may say about their mode of life can teach the student of politics much about their present constitutions and about both the constraints and potentialities implied by their situation. See: Peter Winch, The Idea of a Social Science (London: Routledge & Kegan-Paul, 1959).

²⁸J.D.G. Evans, Aristotle's Concept of Dialectic (Cambridge: Cambridge University Press, 1977), pp. 86-87. I am drawing on him in many ways for this section of my discussion.

²⁹N.E. 1095a2-13.

³⁰Newman, I, p. 9.

³¹Ibid., I:22.

³²See H.H. Joachim, The Nicomachean Ethics: A Commentary, ed. D.A. Rees (Oxford: Clarendon Press, 1951), p. 44: "aidion is used to characterize the self-dependently real, that which contains the conditions of its being within itself-that which maintains itself by the inner necessity of its being, and is timelessly, or eternally, what it is. It is contrasted with the contingent--that which depends for its being upon something other than itself, which is therefore at the mercy of conditions not included within itself, and is therefore liable to change and decay, transitory, possessed only of temporary reality. Thus the aidion or timelessly real is the inherently necessary, the self-determined: and the phtharton (perishable) is the contingent, the externally necessitated.

³³N.E. 1172b. See Oates' discussion, p. 288ff. Presently apparent future goods are all we can hope to base our judgments upon given Aristotle's theory of knowledge of political phenomena. When he needs a standard of judgment for our possible clarity of moral vision, he is forced to adopt a personal one: that provided by the spoudaios or good man. When he needs an ideal political actor he turns to the phronimos or he whose actions embody both virtue and practical reason. Oates, something of a Platonist, takes umbrage with Aristotle over the conflation of moral principles and subjective psychological attributes.

³⁴For Ernest Barker's discussion of this paradox see: 1906, p. 239.

³⁵Joachim offers a formal definition of aporia at p. 219: "An aporia (dilemma, antinomy) is a pair of incompatible conclusions, both of which seem to follow from logically convincing arguments. It is, therefore, like a tangle or a knot by which our intelligence is bound or enmeshed. We can neither accept it nor reject it, and we cannot proceed until we have unravelled one or more of the arguments which form the knot. Aristotle compares an aporia to a desmos (knot) and the solution of the aporia itself, or of the arguments which lead to it, to an unravelling. 1146a24; Met. B. 995a30ff."

³⁶Richard Robinson, Aristotle's Politics: Books III and IV (Oxford: Clarendon Press, 1962), p. x.

³⁷Wolin, p. 58.

³⁸Evans, p. 102.

³⁹N.E. 1141b3.

⁴⁰N.E. 1141b8-14; Oates, p. 265.

⁴¹Newman, I, p. 14.

⁴²See: Plato, The Laws, trans. A.E. Taylor (New York: Everyman's Library), p. 344. "Mankind at large may come far short of the real possession of virtue, but they are by no means equally deficient in the power to judge of the vice or virtue of others; there is a wonderful sagacity among the wicked themselves by which the very wickedest of them are often enabled to discriminate better men from worse accurately enough in their thought and language."

⁴³Politics, 1288b1. See: Earnest Barker, The Politics of Aristotle (Oxford: Clarendon Press, 1946). Unless otherwise noted, this standard translation of the Politics will be my source of quotations from Aristotle in English.

⁴⁴Ibid., 1252a1.

⁴⁵H.G. Liddel and R. Scott, Greek-English Lexicon, ed. Stuart Jones (Oxford: Clarendon Press, 1968), pp. 969-970.

⁴⁶Newman, II, p. 393.

⁴⁷Politics, 1252a. For a good discussion of this point, see: Charles McIlwain, The Growth of Political Thought in the West (New York: MacMillan, 1932), pp. 63-67.

⁴⁸Ibid., 1263b30-41. I have added the bracketed words from the Greek. Barker departed from Newman, translating koinon as "aggregate." Newman says, "There is no English word which adequately represents koinon: 'to make it social and so one' is an approach to the meaning of the words." See: Newman, II:255, n. 39. The Greek text appears in the same volume, p. 29. Also, compare this passage with the argument at 1390b22ff.

⁴⁹Newman, III:186.

⁵⁰Ibid., II:235, n. 39.

⁵¹McIlwain, p. 58.

⁵²Met. 1023b25-1024a10; Politics, 1253a14.

⁵³Barker, (1946), pp. 95-96, n. 0.

⁵⁴Politics, 1254a 13-14.

⁵⁵Newman, II:127.

⁵⁶Politics, 1253a52.

⁵⁷Ibid., 1284a8; 1302b33ff. See also: Ethica Nichomachea, 1107b12-14.

⁵⁸Pol. 1287b12.

⁵⁹Newman, I:208.

⁶⁰Pol. 1279a24.

⁶¹Ibid., 1279a20-24.

⁶²Barker, (1946), p. 113, n. V.

⁶³See: Newman, I:208-209.

⁶⁴Pol. 1279b40.

⁶⁵Ibid., 1280a4-5.

⁶⁶Newman, III:197.

⁶⁷Pol. 1279b11.

⁶⁸Gustav Glotz, The Greek City and Its Institutions (New York: Barnes and Noble, 1959 (1929)), pp. 153-154.

⁶⁹Victor Ehrenberg, From Solon to Socrates (London: Methuen, 1967), p. 64.

⁷⁰Glotz, p. 149.

⁷¹Pol. 1295a35-b1; Newman, IV:473.

⁷²I haven't taken the time to develop this point at length, for my comments on Aristotle have to stop somewhere, but I do not think that what I have said here is unfair to his arguments generally. The distinction between phusis (nature) and nomos (custom) is very important throughout Greek thought. See, for example, Von Fritz and Kapp, Aristotle's Constitution of Athens and Related Texts (New York: Hafner Publ. Co., 1950), p. 56. "Another element in the complex concept of "nature" found in Aristotle and other philosophers was deve-

loped in the course of what may be called the nomos-physis controversy. This controversy arose from the observation made by the Greeks in their contact with other nations with different cultural traditions, that what in one country was the most sacred law or custom might be abhorred as impious in another country, and that, nevertheless, there appeared to exist certain moral principles which, though not identically formulated or always applied in all respects in the same fashion, yet in a general way, seemed to be acknowledged as valid everywhere. From this observation the conclusion was drawn that the laws, rules, or customs of the first kind were man-made and owed their existence to mere "convention," (nomos) while the principles of the second type were in some way based on nature, or, as the Greeks said, existed physei, by nature. It was further observed that these latter principles were only partly incorporated, and, within the various nations or political communities, in very different degrees in the positive or "written" laws, so that, for instance, in the famous funeral speech which Thucydides attributes to Pericles, the greatest moral glory of the Athenians can be found in their obedience to these "unwritten laws," the violation of which brings shame upon the transgressor but is not punished by a law court," p. 38-39. It seems to me that one could show that for Aristotle, property rights are rooted deep in historical tradition and practice, and that the emergence of rich and poor classes is a kind of universal once human population reaches certain levels. This, in turn, would lead him to classify such phenomena under those things given by nature, and this, I think, would explain why he so often makes statements to the effect that, "whenver a majority of any sort, irrespective of wealth or poverty, divides among its members the possessions of a minority, that majority is obviously ruining the state," Pol. 1281a17). See also: Newman, III:211.

⁷³Pol. 1280a16-32. Here is Aristotle's discussion of the relative, partial and fundamentally self-interested concepts of justice that oligarchs and democrats hold respectively. Each is wrong: both fail to raise the fundamental question of the good of the state as a whole.

⁷⁴Pol. 1267a36-b5; 1296a27-b12; 1301a28-39. Rhetoric 1382b5-23.

⁷⁵Ibid., 1295b21-33.

⁷⁶Ibid., 1297a40.

⁷⁷Ibid., 1293b33.

⁷⁸Ibid., 1294b34-41.

⁷⁹Pol. 1276a30ff; 1279a4.

⁸⁰Ibid., 1291b30. Different kinds of democracy are predicated of different kinds of equality. See also: 1281a2ff; 1282b18. For a general discussion of equality not incompatible with Aristotle's approach, see: Anthony Flew, The Politics of Procrustes (Buffalo, New York: Prometheus Books, 1981).

⁸¹See Aristotle's rebuttal of a series of claims that different individuals and groups make to justify their own exercise of power over others. Ibid., 1281a39.

⁸²Ibid., 1261a31-34; Newman, III:190 notes that when the constitution is based on equality, office is a burden that must be borne in turn by all. This kind of office is clearly not intended to be a source of great gain.

⁸³Ibid., 1264b5-10; Newman, III:190.

⁸⁴This is but a reflection of standard Greek practice. The audit was generally exercised at the end of each year when the officers appeared before the assembly to give account of themselves. If they were judged to have done well they were rewarded. If they were judged to have done badly they were ostracised, their property seized; sometimes they were executed. Thucydides believed that Nicias lost the siege at Syracuse because he thought he would be impeached if he retreated (VII.48). See; Robinson, p. 40.

⁸⁵See also the argument at 1332b12ff.

⁸⁶Ibid., 1282a10-13.

⁸⁷Ibid., 1282a32ff (Robinson translation).

⁸⁸Ibid., 1290a7.

⁸⁹Ibid., 1332b12. Barker's addition in brackets.

⁹⁰Ibid., 1297b35.

⁹¹Ibid., 1299b25.

⁹²Ibid., 1300ab.

⁹³Ibid., 1275a3-5; See also: Newman, III:134, 174; IV:177.

⁹⁴Ibid., 1275a7.

⁹⁵There is an obvious howler here. Robinson points it out at p. 7. One of Aristotle's early criteria of citizenship is that both of one's parents be "citizens." But women, of course, are not

citizens--they are only native-born Greeks. So Aristotle uses citizenship in both a broad sense (native birth) and a narrow sense (exercise of privileges) and the real question is: which citizens in the broad sense are also citizens in the narrow sense? We shall see below that even citizens in the broad sense is not an ultimate stipulation: it is at least logically possible for a constitution to provide citizenship to metics, and in such case they would "justly" be called "citizens." We shall see that citizenship, like justice or practical wisdom, cannot be defined a priori: a living constitution is the ultimate and final admissible test. For a rival view of what Aristotle is doing here, see Newman, III:141. He claims that Aristotle is "pointing out the weakness of a rival definition," (i.e., that citizenship is something held to pass by descent from both parents). Perhaps Newman is correct, and Aristotle is saved from logical error, but the confusion over women persists.

⁹⁶Pol., 1275a16-32.

⁹⁷See: Evans, pp. 44-46, where this argument is given at greater length. Aristotle makes the point explicitly at 1275b25 and at length at 1275a33-b20. The citizen may change with the constitution. Hence, though it is possible to provide an "unqualified" definition, in practice, it is context-dependent.

⁹⁸Pol., 1270a25-b10.

⁹⁹Newman, I:236-240.

¹⁰⁰Pol., 1267b25-34.

¹⁰¹Commentators have argued over this dilemma for centuries. There is no coherent doctrine and selected passages add up to a real mess. See for example, Newman, I:234ff; 239-240; 234; Appendix B; III:145, 155, 160, 171. See also: Oates, pp. 285ff, 316. At 1288a32-41, Aristotle says that the politikos cannot be other than the spoudaios. Yet apparently, "goodness" per se and constitutional requirements for good citizens can be identical either in the case of the ideal member of the ideal society, or when the absolutely good man has absolute power (1284b26; 1283b15; 1288a15). One of the major confusions in Aristotle's theory is his failure to reconcile the attributes of the phronimos and the spoudaios.

The phronimos seems to be his ideal political actor--but insofar as the ideal actor is a good man, he must be a spoudaios too. The problem is that the spoudaios of the Ethics follows the via contemplativa while the phronimos is always a man of action and practical affairs. Strictly speaking, then, there is no reason why we should ever expect to find a spoudaios in politics, but Aristotle clearly desires to make room for him in the best or ideal constitution and clearly wishes to say that the people in a democracy can be good

enough to rule themselves. Newman thinks that the confusion can be traced back to Aristotle's use of the term "citizen" (politikos) in the broad and the narrow sense mentioned earlier (see my note 97, supra.). The full citizens possess phronesis; the other group are called neoterioi and often played the role of revolutionaries desiring change. Members of the second group, lacking office, lack the opportunity to develop phronesis; agitating for change, they do not act like good citizens. The damned thing about it is this: should they successfully revolt and change the constitution, change its stipulation about citizenship and make themselves citizens in the full sense, then, Aristotle says, they would be justly deserving of the term "citizens." (1267a38ff). All of this is a result of the necessity carried by the constitution in the definition of the citizen. Are neoterioi who successfully revolt "good"? The answer has to be "yes," provided that the new constitution is based not on force but exists for the common advantage. (1337a27). Can we poke a little fun? Does this anticipate the later linkage between "goodness" and success?

102Pol. 1277a25.

103Newman, I:322-326.

104Pol. 1277b8.

105Ibid., 1277b13-22; Newman, III:157, 174.

106Pol. 1332a2.

107Ibid., 1277b7; Newman, III:168-169, suggests that "Alcibiades experience of being ruled was probably far too short, for he figures as a leading statesman at Athens at a comparatively early age."

108See: Brian Fay, Social Theory and Political Practice (New York: Holmes and Meier, 1976), p. 54. Fay argues against the political impartiality of "policy scientists" as makers of policy, and counterbalances their claims by citing Aristotle. Politics is not about the application of technically correct solutions to problems by experts: it is the all-important process through which collective decisions are made, and these must be taken by men according to mutually defined and accepted rules for creating and administering the laws of their community.

109Pol., 1282a35; Barker, (1946), p. 124.

110Barker, (1906), p. 464.

111Pol., 1281a40ff; Newman, III:213; Barker, (1946), 123ff.

112Pol., 1268a40.

113Newman, I:234. Aristotle intends the citizen to have the attributes of a phronimos but he knows it doesn't always work that way. Hence the elipse in the argument here.

114Ibid., 1331a31; Newman, 414-415.

115Pol. 1294a39; 1320a17. Aristotle recommends both practices but notes that the state can get into serious trouble if its revenues are insufficient. Athens carried out the practice. I see this as important evidence of the extent to which the Greeks were willing to go to insure a meaningful political equality that could circumvent class divisions. In effect, the practice says, "Don't say you're too poor to go down and debate and cast your vote. You won't lose money if you participate in politics: we'll pay you to make sure." Newman's note on all this is instructive if lengthy. See: Newman, IV:530, n. 17.

116Pol. 1281b25; 1286a20-25.

117Ibid., 1286a25ff. Barker's additions in brackets.

118G.E.M. Anscombe, "Thought and Action in Aristotle," in Articles on Aristotle: 2. Ethics and Politics, ed. Jonathan Barnes et al. (London: Duckworth, 1977), pp. 70-71.

119Alasdair McIntyre, A Short History of Ethics (New York: The MacMillan Co., 1966), p. 71.

120Newman, IV: 240ff.

121Elias Canetti, Crowds and Power (New York: Seabury, 1978).

122A.W.H. Adkins, From the Many to the One (Ithaca: Cornell Univ. Press, 1970).

123L. Versenyi, Socratic Humanism (New Haven: Yale University Press, 1963), pp. 47ff, cited in: W.K.C. Guthrie, The Sophists (Cambridge: Cambridge Univ. Press, 1971), p. 180.

124Von Fritz and Kapp, p. 63.

125II Principe Ch. 25. In Machiavelli: The Chief Works and Others, 3 vols., trans. Alan Gilbert (Durham: Duke Univ. Press, 1969). This has become the standard English translation of Machiavelli's works, and all passages from his writing will be taken from this source.

¹²⁶Ibid.

¹²⁷The History of Florence, Book III, Ch. 19, In: Gilbert, III:1170.

¹²⁸Discorsi, 3.11. This example concerns the Roman Tribunes.

¹²⁹See: Johan Huizinga, The Waning of the Middle Ages (Garden City, New York: Doubleday Anchor Books, 1954), pp. 18-19.

¹³⁰II Principe, Ch. 25. See also Discorsi, II.29. "... men are able to assist Fortune but not to thwart her. They can weave her designs but cannot destroy them. They ought, then, never to give up as beaten, because, since they do not know her purpose and she goes through crooked and unknown roads, they can always hope, and hoping are not to give up, in whatever fortune and whatever affliction they may be."

¹³¹For further information on the magnitude of the leap involved in moving from classical Hellas to Renaissance Italy, see: Max Weber, "Ancient and Medieval Democracy," in Economy and Society, 2 vols., ed. Guenther Roth and Claus Wittich (Berkeley: Univ. of California Press, 1978), II:1339-1368. See also Machiavelli's account of the Ciompi revolution in Florence in 1378. History of Florence, in Gilbert, III: 1158-1168.

¹³²Machiavelli's use of this method is especially clear in the Discorsi, 2.12.

¹³³R.M. Ogilvie, "Introduction," Livy: The Early History of Rome (New York: Penguin Books, 1960), p. 8.

¹³⁴Discorsi, 3.37

¹³⁵See: Wolin, p. 228.

¹³⁶Isiah Berlin, "The Originality of Machiavelli," in Against the Current: Essays in the History of Ideas (New York: Penguin Books, 1980).

¹³⁷J.N. Figgis, Political Thought from Gerson to Gratius: 1414-1625 (New York: Harper and Brothers, 1960), (1916), pp. 96-97.

¹³⁸Hans Baron, The Crisis of the Early Italian Renaissance (Princeton: Princeton University Press, 1966); Felix Gilbert, Machiavelli and Guicciardini: Politics and History in Sixteenth Century Florence (Princeton: Princeton University Press, 1965), pp. 154-155.

- 139 J.W. Allen, A History of Political Thought in the Sixteenth Century, 3rd ed. (London: Methuen, 1951), (1928), p. 449; Quentin Skinner, The Foundations of Modern Political Thought, 2 vols. (Cambridge: Cambridge Univ. Press, 1978), I:156.
- 140 Berlin, p. 39.
- 141 Machiavelli's distinction between form and material is basic to his entire approach to politics. I find it interesting to note that the "father of modern political science" draws so fundamental a concept from scholastic philosophy. For a "pure" statement of the relation between forms and materials, and the doctrine of substantial form which served as the resolution of the antithesis for the medievals, see: C.D. Brood, Leibniz: An Introduction, ed. C. Lewy (Cambridge: Cambridge Univ. Press, 1975), pp. 49-51.
- 142 Cecil H. Clough, "Introduction," in: The Discourses of Niccolo Machiavelli, ed. and trans. Leslie J. Walker (London: Routledge and Kegan-Paul, 1975), p. xlv.
- 143 Pocock, (1975), p. 184.
- 144 Discorsi, 1.1; 1.55; 3.8.
- 145 Ibid., I.18.
- 146 Ibid., 1.16. See also: Skinner, I: 157-158; Pocock, pp. 184-185; 207-208; 316-317.
- 147 Discorsi, 1.18. see also: Skinner, 1:164; Leslie J. Walker, ed., "Introduction," The Discourses of Niccolo Machiavelli (London: Routledge and Kegan Paul, 1975), pp. 99ff.
- 148 Walker, pp. 100-101.
- 149 Berlin, p. 46.
- 150 Maurice Merleau-Ponty, "A Note On Machiavelli," Signs (Evanston: Northwestern Univ. Press, 1964), pp. 214-215.
- 151 Discorsi, III.3.
- 152 Ibid., 1.16; 11.23; 111.5.
- 153 Ibid., 1.40.
- 154 Ibid., 1.58.
- 155 Ibid., 1.1

¹⁵⁶Ibid.

¹⁵⁷Ibid., 1.2.

¹⁵⁸See: A. Gilbert, 1:101-115.

¹⁵⁹Ibid., p. 108.

¹⁶⁰Ibid., p. 109.

¹⁶¹Ibid., p. 110.

¹⁶²Ibid., pp. 110-111.

¹⁶³Ibid., p. 112.

¹⁶⁴Ibid., p. 115.

¹⁶⁵Wolin, p. 223.

¹⁶⁶Discorsi, 111:34.

¹⁶⁷Ibid.

¹⁶⁸Ibid., 1.60.

¹⁶⁹Ibid., 11.2.

¹⁷⁰Ibid., 111:1.

¹⁷¹Wolin, pp. 213-214.

¹⁷²J.G.A. Pocock, "Introduction," Three British Revolutions: 1641, 1688, 1776, ed. J.G.A. Pocock (Princeton: Princeton University Press, 1980), pp. 3-20. My brief account of these early developments and the current views of them is drawn from Pocock's work as it has appeared in a number of places.

¹⁷³Pocock, Ibid., p. 4. The bibliographical information for these three important works is as follows: Lawrence Stone, The Crisis of the Aristocracy, 1558-1640 (Oxford: Clarendon Press, 1965); J.H. Plumb, The Growth of Political Stability in England, 1675-1725 (London: MacMillan, 1967); Bernard Bailyn, The Ideological Origins of the American Revolution (Cambridge: Harvard University Press, 1967).

¹⁷⁴Weston, p. 14.

¹⁷⁵Ibid., pp. 23-24.

¹⁷⁶Ibid., p. 34.

¹⁷⁷Pocock, (1975), p. 335.

¹⁷⁸J.G.A. Pocock, "Machiavelli, Harrington and English Political Ideologies," in Politics, Language and Time, ed. J.G.A. Pocock (New York: Atheneum, 1971), p. 108.

¹⁷⁹Pocock, (1975), p. 198.

¹⁸⁰Ibid., pp. 199-201.

¹⁸¹Ibid., 201-202.

¹⁸²For this account of these events, I am drawing upon: J.G.A. Pocock, "Introduction," in The Political Works of James Harrington, ed. J.G.A. Pocock (Cambridge: Cambridge University Press, 1977), pp. 130ff.

¹⁸³Ibid., pp. 130-131.

¹⁸⁴Ibid.

¹⁸⁵Ibid., p. 133. For a brief account of the general concept and institutional practice of representation as it rose and evolved in England, starting with rather murky beginnings in the Medieval Church, see: A.E. Pollard, The Evolution of Parliament, 2nd edition, (London: Longmans, 1926), pp. 149-165.

¹⁸⁶Pocock, (1977), p. 136.

¹⁸⁷Ibid., p. 142.

¹⁸⁸Ibid., p. 140; 146ff.

¹⁸⁹Ibid., p. 140.

¹⁹⁰For a different but brilliant account of these developments see: Donald W. Hanson, From Kingdom to Commonwealth: The Development of Civic Consciousness in English Political Thought (Cambridge: Harvard Univ. Press, 1970).

¹⁹¹This is Plumb's thesis. A Tudor Aristocracy was replaced by a Whig Aristocracy. The essential form of the mixed government constitution was preserved, but the distribution of power among its branches was altered at the expense of the king. At the same time, it should be clear why a doctrine of Parliamentary sovereignty took so long to surface in England and why it was necessarily more conservative than the undivided sovereignty that applied to the Athenian

assembly. Historically speaking, Parliament "borrowed" its sovereignty from the monarchy. It was not, itself, the font of all power, or the place where political authority originated.

¹⁹²Ibid., pp. 143-144.

¹⁹³Wood, p. 11. We are going to follow Wood's account of the American debates and turns of thought. There are a number of alternatives available among historians of the period, but here it is more important to sketch the major turns in the thought of the period than it is to become immersed in the scholarly arguments that set one view off from another.

¹⁹⁴Pocock, "Introduction," (1971), p. 14.

¹⁹⁵Pocock, "Machiavelli, Harrington and English Ideologies," (1971), pp. 266-267; 270.

¹⁹⁶Ibid., p. 270.

¹⁹⁷Bernard Bailyn, (1967), p. vii.

¹⁹⁸Ibid., p. xi.

¹⁹⁹Wood, p. 11.

²⁰⁰Ibid., p. 16.

²⁰¹Ibid., p. 18.

²⁰²Ibid., p. 6.

²⁰³Ibid., p. 17.

²⁰⁴Ibid., p. 20.

²⁰⁵Ibid., p. 23.

²⁰⁶Ibid., p. 24.

²⁰⁷Bailyn, 1967, pp. 162-164.

²⁰⁸Ibid.

²⁰⁹Ibid., pp. 26.

²¹⁰Ibid., p. 27-28.

²¹¹Among numberless studies of English politics during the reign of George III, see: Richard Pares, King George III and the

Politicians (Oxford: Clarendon Press, 1953); John Brewer, Party Ideology and Popular Politics at the Accession of George III (Cambridge: Cambridge Univ. Press, 1976); Sir Lewis Namier, The Structure of Politics at the Accession of George III, 2nd ed. (London: Methuen, 1957).

²¹²Wood, p. 208.

²¹³Ibid.

²¹⁴Pocock, (1975), pp. 506-517.

²¹⁵Wood, p. 41.

²¹⁶See Wood's discussion, Ibid., pp. 605ff.

²¹⁷Ibid., p. 132.

²¹⁸Ibid., p. 129.

²¹⁹Ibid., p. 134.

²²⁰Ibid., p. 135.

²²¹Ibid., p. 174-175.

²²²Ibid.

²²³Ibid., p. 176.

²²⁴Ibid.

²²⁵Ibid., p. 178.

²²⁶Ibid., p. 179.

²²⁷Ibid., p. 181.

²²⁸Ibid., p. 182.

²²⁹Ibid.

²³⁰Ibid., pp. 183-184.

²³¹Ibid., p. 184.

²³²See Wood's discussion, Ibid., pp. 188-196.

²³³Ibid., p. 188.

- ²³⁴Ibid., p. 196.
²³⁵Ibid., p. 202.
²³⁶Ibid., p. 203.
²³⁷Ibid., pp. 206-207.
²³⁸Ibid., p. 208-209.
²³⁹Ibid., p. 215.
²⁴⁰Ibid., p. 216.
²⁴¹Ibid., p. 217.
²⁴²Ibid., p. 218.
²⁴³Ibid., p. 219.
²⁴⁴Ibid., p. 220.
²⁴⁵Ibid., p. 221.
²⁴⁶Ibid., pp. 221-222.
²⁴⁷Ibid., p. 235.
²⁴⁸Ibid., p. 236.
²⁴⁹Ibid., p. 245.
²⁵⁰Ibid.
²⁵⁰Ibid., p. 248, 250.
²⁵¹Ibid., p. 251.
²⁵²Ibid., p. 361.
²⁵³Ibid., p. 362.
²⁵⁴Ibid., p. 364.
²⁵⁵Ibid., pp. 371-372.
²⁵⁶Ibid., pp. 181-467.
²⁵⁷Ibid., p. 376.

- 258Ibid., p. 380.
259Ibid., p. 398.
260Ibid., p. 403.
261Ibid., p. 405.
262Ibid., p. 407.
263Ibid., p. 409.
264Ibid., p. 410.
265Ibid., p. 412.
266Ibid., p. 414.
267Ibid., p. 417.
268Ibid., p. 435.
269Ibid., p. 437.
270Ibid.
271Ibid., p. 438.
272Ibid., p. 443.
273Ibid., p. 447.
274Ibid., p. 449.

CHAPTER III

THE HISTORICAL DEVELOPMENT OF THE U.S. CONGRESS

The matter that detains us now may seem,
To many, neither dignified enough
Nor arduous, yet will not be scorned by them,
Who, looking inward, have observed the ties
That bind the perishable hours of life
Each to the other, and the curious props
By which the world of memory and thought
Exists and is sustained.

Wordsworth
Prelude

Introduction

Congress is not a Parsonian object of knowledge.¹ The whole cannot be displayed before one's view at a given time. Indeed, as one focuses one's attention from one aspect or process to another, the whole thing seems to change. It shifts in turn from something where moral activity takes place, to a repository of power; it shifts from being a public space to a system of political networks and personal relationships. Sometimes it appears to be a bureaucratized hierarchy. Seeking the whole, the student of Congress approaches his subject-matter by grasping its parts, each of which is examined as containing its peculiar strengths and weaknesses, each of which contributes to and takes away from the strength of the whole. At the same time, the various parts, even if added together, do not reveal the entirety of

the institution as it "really is" and perhaps it is this which explains why most professional students of the body seem to have given up all attempts to arrive at an overarching synthesis and become specialists in the analysis and study of some part or aspect of the whole.

Very often, however, one can sense a kind of incoherence or "felt" synthesis behind the technical analysis of the expert professional student, based upon some image of what the body is and how it functions in essence. The beginning student, seeking his own synthesis, tries to overlay a welter of received images one upon the other, to see what forms emerge. What results is not a collage, or a complex image, but a multiple exposure, blurred, indistinct and suffused with far more light than necessary to make form or surface evident.

At the heart of the problem is a set of implicitly contested assertions about the flow of power itself: where it "begins" or first impinges upon a complex structure and who is primarily responsible--or subject to pressure on behalf of--whom.

While many students try to confine their researches to matters pertaining to the internal affairs of the body, a significant number of important studies have found it necessary to go beyond Congress in order to explain it--to the electorate; to the bureaucracy; to the corporate structure; to the activities of lobbies and special-interest groups. What studies of the latter sort reveal is that "Congress," be it a concept or an institution, is context-dependent, and that

possible solutions to particular questions involving its nature or operations depend upon clarification of the surrounding circumstances.

Finally, the elucidation of any such context itself depends upon how a given student evaluates Congressional performance of its Constitutionally-mandated duties, which rests in turn upon his or her evaluation of what those duties comprise. Roger Davidson and Walter Oleszek have noticed this:

A key problem . . . is contemporary uncertainty with respect to Congress' role in the polity. Without a clear notion of Congress' place in the larger political system, it is difficult to know whether the legislative branch is functioning as it should, or to evaluate reform proposals that might remedy its alleged deficiencies. Some legislators and scholars want to make Congress into the policy-making equivalent of a Brookings Institution. Others emphasize Congress' oversight responsibilities and urge deference to the President as chief legislator. A third group argues for disciplined national political parties that can take clearly defined policy positions; such a change would be implemented through cohesive majority party action in the House and Senate.²

A second difficulty which arises with respect to a student's fundamental evaluation of the basic relationship which Congress has to the polity in general can be seen in terms of focus: does one look for the effectiveness with which the Congress operates in relation to the general order, or does one emphasize the more concrete and discrete relationship which the individual member has to the district which elected him?

. . . while the institution may be woefully unresponsive, the members can act very responsively in their casework and on specific district-related policy problems; the evaluation of congressional responsiveness depends upon whether the body as a whole or the individual member is considered.³

Such evaluations, of course, depend upon the "politics" of the student. Most start with an image or representation of the flow-chart of power which animates the rest; the analyses which follow the selection of the image can be quite complex and sophisticated. But, again, when any such image is held up before the full range of possible interpretations, each seems condemned to partiality. In my view, this is a necessary consequence of the emphasis essential to the formation of any perspective. Aristotle would probably note here that systematic or comprehensive explanations of Congress are impossible to attain, even in theory, because Congress is not among those things which can be so explained. Long ago, Woodrow Wilson expressed very similar sentiments about the confusing nature of Congress, and while I am unable to find his "system which underlies its composition," I find his general statement true enough:

. . . Like a vast picture thronged with figures of equal prominence and crowded with elaborate and obtrusive details, Congress is hard to see satisfactorily and appreciatively at a single view and from a single standpoint. Its complicated forms and diversified structure confuse the vision, and conceal the system which underlies its composition. It is too complex to be understood without an effort, without a careful and systematic process of analysis. Consequently, very few people do understand it, and its doors are practically shut against the comprehension of the public at large. If Congress had a few authoritative leaders whose figures were very distinct and very conspicuous to the eye of the world, and who could represent and stand for the national legislature in the thoughts of that very numerous and withal very respectable, class of persons who must think specifically and in concrete forms when they think at all, those persons who can make something out of men but very little out of intangible generalizations, it would be quite within the region of possibilities for the majority of the nation to follow the course of legislation without any very serious confusion of thought.⁴

One crucial difference between Wilson's generation and its successors is that he has sought his controlling image in the human figure, while we have proceeded to analyze structural relationships, power flows or interest networks. For example, over the years, Nelson Polsby has consistently emphasized the "representative function" of Congress;⁵ David Mayhew, the consequences of which the never-ending pressure of impending elections has upon the behavior of its membership;⁶ Davidson and Oleszek describe a body riven by internal conflicts and at war against itself;⁷ and Dodd and Schott are primarily concerned with the place that the legislative body has come to occupy within the distended structure of the administrative state.⁸ Michael Malbin and J. McIver Weatherford are struck by the problem of rising staff power--something unheard of twenty years ago--and approach it from the standpoints of political scientist⁹ and anthropologist.¹⁰ The collections of articles edited by Dodd and Oppenheimer¹¹ and Mann and Ornstein¹² inadvertently bear out the Aristotelian doctrine that politics be studied through aporiae or selected problems, for each of the articles presented in these collections takes as its subject some crucial attribute of the Congress and none attempts to grasp it as a whole. Taken together, however, this multiplicity of perspectives adds up to a body of information about the variety of problems and circumstances which now beset our national legislature. Though they cannot be said to reveal the true nature of Congress "as a whole," they provide a rich context for raising the questions pertinent to our own inquiry, and together, they add up to a

consensus that is critical of many of its current practices.

One crucial question that will be constantly before us is the extent to which the specialization of individual members has aided or hindered the ability of the general body to carry out its proper functions within the mixed constitution of the United States. Evidence can be amassed on either side, but we should not begin to think about this problem without recalling Polsby's observation:

. . . the total impact of a cadre of specialists over the entire spectrum of public policies is a formidable asset for a political institution; and it has undoubtedly enabled the House to retain a measure of autonomy and influence that is quite exceptional for a 20th century legislature.¹³

Specialization presents difficulties for the theorist of public space because through it, the legislature finds itself intellectually and politically divided before it can assemble to deliberate and decide. In what follows, we shall explore both the origins and the political consequences of this division of Congress, and try to determine whether or not its powers have indeed been upheld by such specialization.

That Congress in its present form is the product of a lengthy evolution and rich history often fails to take a prominent place, or even serve a cursory role, in the researches and discoveries of many of the best students of that body--despite the fact that the need for such research has been widely evident among political scientists for some time.¹⁴ This general omission of the historical dimension is unfortunate. It seems obvious to this student, at any rate, that any adequate explanation of what the Congress "is" entails some apprehen-

sion of how it came to be that way, because the present arrangements are outcomes of lengthy historical, evolutionary and political processes which are rooted first of all in the practices of the Federalist period, but equally in the explosion in complexity which took place in stages beginning early in the present century. Coeval with these developments are the processes which Congress has instituted in response to the vast changes in the nature of the national government which it initiated during the New Deal period.¹⁵ Recent developments within the professional literature indicate that others are beginning to recognize the advantages which can accrue from taking Polsby's advice and heeding the vital importance which the history of Congress has for our understanding of it. With luck the number of studies of Congress which incorporate the history of its development will increase.¹⁶

The "historical" approach primarily involves explanation as a matter of the unfolding of a simple chronology of events and developments in the history of the Congress itself.¹⁷ This approach will be useful for our purposes, first because it will permit us to move directly from the arguments of the founders about the powers and purposes of the national legislature to the actual practices they carried out upon finding themselves seated members of the first Congresses. In other words, additional evidence for the founders' notions about the nature of a possible national public space can be gleaned from their actual constitution of that space as they struggled with the day to day problems of legislating. We will find, I think, that practical

necessity forced them to modify some of their original views once they tried to come to grips with the concrete problems which arose in the course of governing a large and heterogeneous polity. Second, the historical approach facilitates analysis of the functions of current institutions and practices within the Congress by providing the opportunity to review the forces which preceded their emergence as practices within the life of the legislature as a whole. Here we will find Congress struggling to maintain a balancing act between its internal requirements of democracy and consensus; between member autonomy and party leadership; between its own powers and those of the executive.¹⁸ The history of the Congress is one of a series of oscillations in each of these areas, between personal and individual power and powerlessness, and a constant struggle--manifest in periodic rearrangements of the formalities which govern its internal organization--to co-exist with a continually changing governmental and political environment.¹⁹ Has the member of Congress qua citizen been lost in all this? This is what we will have to determine, for without a real citizen, there can be no public space; and if the public space be rendered powerless, ignoble, largely ceremonial or in some other ways impotent, there can be no real citizenry.

Congress in the Federalist Period:
Failures of the Democratic Form

For purposes of analytic simplicity, the ideal approach to even the sketchiest review of the history of Congress would be to

separate its development of internal complexity from its external balance of power with the Presidency. Unfortunately, in this as in so many other cases involving institutions, analytic elegance and strict chronology do not mix--yet, the requirements of chronology are such that they cannot be separated. After some ruminations and a few false starts, the student of Congress finds that the opening pages of any such history must include three crucial factors which impinged upon the membership from the very outset, and quite firmly steered the organization away from the mass meeting form of conduct which it received at birth. These factors, which we shall explore in some depth, are first, the problem of legislative detail; second, the problem of attaining political consensus among a heterogeneous group; and third, the partial imposition of order upon an unruly and disorganized Congress by agents of the executive branch. Once history has begun to intrude the executive into the internal processes of Congress, however, it is very difficult to extrude it later for purposes of analysis. And yet it seems that the two must be kept separate if theoretical questions about the nature of representative government in the U. S. are going to be raised at all.

The founders of the American Republic were not citizens of a city-state. Indeed, the America of 1787 more resembled the entirety of Greece as it was in 338 B.C. than it did any single city-state of Aristotle's era--and the student of history notes that it took no less than Alexander the Great to unify the former. Hence, if we take the relative simplicity of the polis as a benchmark, we see the

Constitutional convention of 1787 taking place within the context of a heterogeneous confederation or league of allies, formed primarily in opposition to a foreign power, only to be beset by centrifugal forces once the period of armed conflict was over. The task the Convention faced then was to subdue these forces without subjugating them, by seducing them into jointly cooperating in the creation of a central authority. All of this material has been reviewed in an earlier chapter.

Drawing upon a complex fusion of Enlightenment political philosophy, Roman history and law, English precedent and radical Whig doctrines, not to mention their own experiences in colonial government, the founders constructed an artifice which, in their own view, was to revolve around the open space at the center of the Legislative branch of the new republic. Accordingly, most of the substantive powers of government having to do with domestic policy were explicitly placed under the purview of that body which was to lie closest to those upon whom its decisions would have immediate effects. Unfortunately, despite the Constitutional attention lavished upon the powers and duties of Congress, and upon the qualifications for serving there, little mention was made about the nature of the Congress per se. Indeed, the members of that body itself were to "chuse their speaker and other officers . . ." and, by implication, to regulate their internal affairs themselves.

Once assembled, the new Congress set about readying itself for joint political action. The record shows that the individual mem-

bers had had considerable prior experience. Seated in the House were nine representatives who had been members of the Constitutional Convention and thirty-six who had sat in the Continental Congress. Thirty-nine representatives had served in state legislatures, and fifty-two had been members of either a state legislature, the Continental Congress or the Federal Convention. There were sixty-five members in all.²⁰ A House quorum straggled in on 1 April, 1789, chose A. C. Muhlenberg as speaker, and he promptly named a committee to draw up the first rules of procedures.²¹ Our first important clue to the riddle of Congress therefore lies in the discovery that a committee was prior to everything else--even to rules of procedure. That Muhlenberg's committee duly met and performed its functions we can infer from the historical record: by 18 April, the House was already debating the first tariff bill. Here is how they proceeded in those early days:

In the early years of the House, it was the practice to begin discussion of all major legislative proposals in Committee of the Whole House on the State of the Union. After broad agreement had been reached on the principles involved, a select committee was named to draft a bill. When this committee reported back to the House, the bill itself was referred to a Committee of the Whole for section-by-section debate and approval or amendment. Its work completed, the committee rose, the Speaker resumed the chair, and the House either accepted or rejected the amendments agreed to in Committee of the Whole. This was followed by a third and final reading of the engrossed or complete bill and passage by the House.

Since there were no time limits as yet on the right of members to speak, even the small membership of the First and Second Congresses found this procedure cumbersome. Rep. James Madison blamed the "delays and perplexities" of the House on "the want of precedents." But Rep. Fisher Ames of Massachusetts saw the problem as an excessive concern with

detail in the "unwieldy Committee of the Whole, for "a great, clumsy machine is applied to the slightest and most delicate operations--the hoof of an elephant to the strokes of mezzotinto.²²

George Galloway goes on to report Fisher Ames' remarks at greater length, and they are interesting because they indicate something about the value of the contributions which the committee system made to the legislative process at this early stage. Ames was quite strongly in favor of committees, and had little apparent use for the Committee of the Whole--in part, no doubt, because of the rather poor quality of the debates he observed there. Contrary to received wisdom and mythological assumptions about those good old early days, Ames' account makes clear that there were times when the Congress did not so much debate matters of high principle as it indulged itself by wallowing in trivialities. Writing to a friend in July, 1789, Ames described the procedure as follows:

The bill was at first very imperfect. We laboured upon it for some time, settled some principles, and referred it to a large and very good committee. They met, agreed upon principles, and the clerk drew the bill which they reported. We consider it in committee of the whole, and we indulge a very minute criticism upon its style. We correct spelling, or erase may and insert shall, and quiddle in a manner which provokes me. A select committee would soon correct little improprieties. Our great committee is too unwieldy for this operation. A great, clumsy machine. . . .²³

While Ames was objecting to Congressional preoccupation with the details of rhetoric, details of an entirely different sort quickly presented the earliest Congresses with a challenge that could not be adequately met by the committee of the whole; challenges which concerned a problem that has plagued Congress throughout its history:

how is it possible for an assembly to keep up with an increasingly heavy and detailed work load and simultaneously debate the substantive issues and basic principles involved in every matter of policy? Clearly, the intention of the Founders, and those of their contemporaries who found themselves seated in the earliest Congresses, was to have the entire body assemble and debate together, first the broad principles and then the substantive details comprised by each bill. This procedure guaranteed that each of the many interests actually present in the emerging American society would have an effective voice in the legislative body. Indeed, Galloway holds that in those first days, the House was small enough to function as a genuine deliberative assembly and to stage great debates on national questions.²⁴ But apparently, the organizational difficulties which followed from this arrangement proved to be insuperable, and it quickly turned out that it was impossible for each and every interest to participate on an equal footing with all of the others on every legislative task which the Congress then confronted. The paralysis of the body by a mass of detail, then, provided a ready historical answer to the question posed earlier: it is not possible for an assembly to keep up with an increasingly heavy and detailed work load and simultaneously assemble to debate the substantive issues and basic principles involved in every matter of policy. The formal and politically necessary solution to the problem, of course, was the institution of the standing committee: in order to conquer a burgeoning and detailed workload, and manage its own growing numbers, the assembled body itself would have

to divide:

. . . as [House] business multiplied and its membership increased (to 106 after the census of 1790 and 142 after that of 1800), the House began to delegate increasing responsibility for initiating legislation to standing or permanent committees. Four were established by 1795; between 1802 and 1809, six were added.²⁵

So goes the conventional wisdom of the standard account. From it one could draw a variety of implications and raise important questions. First, on the negative side, a subdivided legislature forces its individual member to specialize and, perforce neglect his general responsibilities to both his constituency and to himself as a citizen. Second, a subdivided legislature comprised of specialists is structurally impeded from bringing its collective wisdom to bear on matters that concern the common interest. Third, a subdivided legislature cannot "represent" the generality of society or speak in its name, but delegates its responsibilities to its parts which then presume to speak in the name of the whole. To claim that the part can adequately represent the whole is, in effect, to commit the logical fallacy of composition and to subvert the founders' notions of the true relationship which a representative body should have to those who have elected it to act for them.

Such arguments, however, tend to leave out the element of politics. If the Congress had to subdivide because of the wealth of detail involved in drawing up legislation, then the act of legislating can ultimately be reduced to a problem of perception and this thesis would be written on the subject of selected problems in collective

epistemology. In that case, the fundamental question would be, "How does a group intersubjectively establish consensus about the nature of reality with reference to a given question?" Unfortunately, politics is not always so easily reduced to problems of perception. On the positive side, the delegation of responsibility for specific legislation to certain individuals is a division of labor that makes it easier for an unwieldy body to approach consensus on a variety of detailed matters, and to move a vast workload through its legislative calendar. Such a task would have been simply impossible had the entirety of the assembly attempted to pore over the minutiae necessary to the drafting of effective legislation. Second, insofar as it might be said that it is in the general interest to maintain legislative control over those areas where Constitutional responsibilities are clear, then in those cases where legislation is necessarily detailed, specialization, in fact, serves that general interest. It seems that there can be no "final solution" to this dilemma. While the standard account emphasizes the problems which detailed legislation presents to an assembled body, it remains to explore its political dimensions in further detail.²⁶ We can put the problem this way: suppose that all members of an imaginary assembly can agree about the nature of a problem wanting solution. This in no way guarantees that they will be able to agree on what should be done about it. We will call this the problem of formulating a consensus for political action--without which any legislature is impotent.

James Sterling Young has shown, for example, that the early

Congress was not paralyzed by its inability to sit en banc and debate an infinity of details, but rather by its nature as a representative body. For Young, the intersubjective and psychological attitudes of much of its early membership prevent it from agreeing about very much at all. The characterological structure of the individual members led them to hold certain attitudes about political power and authority which, in turn, led them to value particular forms of institutional organization over others--and this led to a breakdown in the potential for collective action. Young points out the problem: "'The Americans,' observed an astonished Britisher, have taken 'the principle of democracy . . . [and] applied [it] to a legislative body.'"²⁷

Given Gordon Wood's analysis of the social attitudes which swept the country in the years immediately following the revolutionary period, this is precisely what we might have expected the newly-liberated colonists to do as they assembled together to make laws.²⁸ Yet, once having moved to form and operate a government, these individuals perhaps continued to adhere to principles more appropriate to revolutionaries than statesmen. In any case, their continuing to base their actions on an unallayed principle of democracy gave rise to what the modern student of Congress--not to mention of ancient democracies--can only define as bizarre activity: there was here no spirit of cooperation, conciliation or deference to the opinions of others; individuation of behavior and opinion was valued, and following the lead of others was scorned.²⁹ These psychological atti-

tudes in turn fostered a dogged persistence in the practice of democracy and a delicate concern with the equality of each person such that the concerted action which results in the passage of bills--and which, after all, must be directed by someone--became nearly impossible to achieve.³⁰ These outwardly apparent difficulties were underscored by fundamental differences of outlook and culture which separated the men who gathered in the well of Congress from one another, for in the Jeffersonian era, men from different regions were men from different cultures.³¹ The result was a highly contentious lower house, lacking party discipline and organization³² and recognizing no leadership of its own.³³ Speaker Henry Clay proceeded to aggravate such sectional differences by distributing committee chairmanships equally among the sectionally-oriented fraternal groups that attained social and political cohesion in community boarding houses, and which constituted the actual power blocs and interest groups of the Congress at that time. By multiplying the number of groups involved in policy-making, "the committee system" under Clay, "multiplied also the opportunities for obstructionism and . . . introduced a whole new set of disparate organized interests into the congressional establishment."³⁴ For Young, then, the committee system--which we are examining as the logical response to the complexity of legislation--did not enable Congress to function effectively, nor can its emergence be laid to the complexity of the Congressional tasks at hand. Instead,

. . . the standard interpretation which sees the committee

system as a response to the problem of handling a large volume of technically complex legislation seems not very applicable to the Jeffersonian era. Decision-making by the minority formations that were the congressional committees may well have been, in part, a functional adaptation to the early Congress' incapacity to organize itself for effective policy-making by majorities.³⁵

Undaunted by preceding historians and political scientists, Young took the view that early Congressional paralysis resulted from its failure as a body to develop institutionalized means of attaining consensus--in short, that the problem lay in the internal structure of Congress as that structure reflected the psychological attitudes of its membership. Congress lacked leadership; it had no coherent party structure; its committees held themselves responsible to nothing beyond the informal and regional affiliations of their constituent members; and the body as a whole could neither bring itself nor force itself to act. And what did we have then? Government by separate and rival interests; government without the possibility of compromise; government in which subjective independence was valued more highly than government itself. Young's description of the inability of Congress to respond to the deepening crisis brought on by the War of 1812 stands as a graphic illustration of the consequences which can follow from a kind of naive self-indulgence in internal democracy: a week after the British had sacked the Alexandria waterfront, Congress, unable to agree about even the most fundamental policies for the defense of Washington, decided to go home.³⁶

How does Young explain the problem of Congressional inactivity then? How does he evaluate the consequences of the struggles of the

early membership to maintain a government of separate and rival interests? I find that his account focuses on two factors already mentioned. First, the members of the early Congresses placed a much higher value on their notions of "equality" than they did upon leadership, guidance or discipline. Individually, they abhorred and distrusted power; collectively, they acted to check any move by any of their membership to raise himself to a superordinate position. Second, instead of identifying with the institution of Congress and with its responsibilities as an organ of government, the members stayed attuned to their constituencies, embodying in microcosm the disparate forces of the larger society which had sent them to Washington. Instead of seeing themselves as "governors" or agents of government, they persisted in seeing themselves as "outsiders," even while occupying seats of power. Young sums up:

It can scarcely be accident that a community whose members were disposed to see immorality in power was also a community deficient in the behaviors and the informal institutions by which (majority) power is acquired. What, indeed, was the failure to develop any system for getting majority agreement if not another expression of the governmental community's aversion to the sorts of behavior that mark a man for a politician and a seeker after power? What, after all, but the legislator's antipower values created in them that compulsion to play the constituency advocate--the outsider in power--and to avoid the behavior of rulers? The psychology of the governors themselves would seem to explain better than any other single factor their deficiencies in the statecraft that is necessary to make a truly representative institution into an effective governing institution.³⁷

To the extent that this aversion to power is an expression of the desire for and belief in "equality," note that this not the notion of equality which one finds in Aristotle (i. e. , that equals rule

equals and are ruled in turn), and that it would probably have made very little sense to the ancients. Note also that it did not last: not in the social order, and not in the political order. The subsequent history of Congress can be read as a succession of attempts to institutionalize inequality within the chamber in order that it might act and carry out its public business. What characterized citizen equality for the ancients, as we have seen, was participation in the daily affairs of the state or the plausible expectation that one not so engaged at the present moment might yet be at a future time. This made the affairs of the polis common and shared, and political action a necessary dimension of a fully human life. By grounding their conception of citizen equality in individualism rather than in participation, the Americans succeeded not only in giving power a bad name, but also in driving a wedge between the state and society which they have yet to remove. It is important to contrast this ethos of frontier anarchy with the freedoms enjoyed by individual citizens in the classical tradition, for the Americans distrusted government and often cared little for its success or well-being. All too often the early members saw their primary responsibilities in terms of protecting themselves and their constituencies from the predations of government and their own terms of service there as an unwelcome chore to be got over as soon as possible. Enjoying power in one sense, they literally did not share it among themselves, and therefore rendered it impossible to use for either good or ill.

Young's distinction between representing and governing is

important and fundamental to our analysis. It will necessarily have important consequences for any theory of a public space, and for the history of that concept as it has evolved in the U. S. If the Americans did not value participation as much as they did equality, and desired to see themselves living in isolation, free of government and away from government, then the primary duty of any self-respecting representative must have been at that time to diminish the prerogatives of government and hold it at bay while a suspicious citizenry lurked in the distance. And this more or less accurately characterizes Young's account of the attitudes most Americans had toward the unsung little group in Washington until the time of the election of Jackson in 1828.

As Gordon Wood has pointed out at length,³⁸ this represented a radical departure from the Whig theories which had sparked debates throughout the colonies a mere twenty-five years before the first Congress gathered. For the government to protect its citizenry from tyrants is one thing; for it to express their views and interests in the construction of positive policies is another; for it to be expected to draw away into itself and leave them alone is something else entirely, and while it is my contention that this deep-seated attitude has gone unsung for too long by political scientists and historians alike, it can hardly serve as the basis for evaluating the historical failures and accomplishments of the Congress.

Suppose, then, that the representatives served their constituencies well by refusing to cooperate with one another? There was,

nonetheless pressing business to attend to, bills to draft, an economy to strengthen, taxes to gather and war debts to pay. At what point is it necessary for the representative to abandon specialized constituency interests and devise compromises with his colleagues so that the common or general interest might emerge with respect to the actual products of legislative action? At what point is it necessary for particular interests to maintain a strong presence in the representative body so that no important part of the represented constituency is ignored when decisions are taken which affect the whole? The first question is posed from the standpoint of one who looks down on the body politic and realizes that the requisites of governing are not always identical with those of "actually" representing. This is the view that Young takes. The second question is posed from the standpoint of one who looks up, distrusting perhaps, and seeks to limit the power of government and of individual governors alike. This is the view apparently taken by many of the members of the early Congress. The first view is that held by those who believe in theories of virtual representation; the second accords with the theory of actual representation. The first view is that taken by those who hold that the common interest will be best served by a government which is able to act; the second view is taken by those who stress that government is or ought to be an instrument of the popular will, and who tend to favor discouraging government action. In theory, the two views stand in a relation of parataxis. In practice, such dilemmas are always resolved, and were in this case when the second view

emerged as dominant and the Congress almost literally ran out the back door of the Capitol building while the British came in the front.

The practical dilemma which Congress always faces as it organizes itself to do business can be expressed as the need to maintain a balance between the requirements of actual representation, and the problem of resolving its internal differences and establishing mechanisms for attaining consensus in order to use its powers. We shall see that whenever sectional or class differences have prevented majorities from forming about or acting upon general questions, or whenever the formal mechanisms for achieving consensus have broken down, Congress has been unable to maintain its power as an institution--even in those areas where its Constitutional responsibilities are clear.

It follows from these considerations that the problem of representation is now cast in a very ambiguous light indeed: clearly, this concept is central both to theories of republican government and to the particular array of powers which the Constitution has conferred upon the Congress. If the Congress does not provide a forum for the articulation and clash of a diversity of interests in a public space, what reason could we as citizens possibly have for valuing such an institution? At the same time, we have tried to show that there are both logical and political limits to what can be demanded or expected of the representative function: such limits are reached via either the route of legislative detail or that of the consensus problem. If the Constitution was deficient in having failed to stipulate an internal

structure for the Congress, that body nonetheless found itself having to invent such a structure on an ad hoc basis if it was to carry out its mandated duties as an organ of the new government. Thus we find that the member of Congress has a dual responsibility: first, to represent his constituency; second, to uphold the institution of which he is a member. His ability to carry out the first absolutely depends upon his willingness to carry out the second. This duality is forced upon the member by virtue of the practical necessities of government, but it can be seen to undercut the radical Whig doctrines and the American ideals of "actual" representation which we saw so animated the revolutionary impulses reviewed in the last chapter.

We thus find ourselves forced to turn away from the problem of actual representation and take up the series of Congressional efforts to institutionalize procedures for the regular attainment of consensus which have preoccupied it intermittently right up to the present day. But this shift from representing to governing will not free us from paradox: if we are to take the problem of positive action as the context of Congressional self-government, we run smack up against the usual gamut of problems that attend the conduct of groups which make decisions on other than strictly democratic lines. Not only shall we find Congressional majorities and minorities, we will encounter big men and little men, reform movements which are restrained and reform movements which are successful; leadership coalitions that manage the chamber with an iron hand and others which fail to muster the discipline necessary to enact programs. We may even find

Congressional anarchy. Behind all such possible and actual manouvers and discussions may be found the individual member of the Congress, now seen in the guise of participating citizen rather than representative. Instead of the dilemma of governing vs. representing, we face that of the one and the many: can Congress solve the problem of positive action only at the expense of internal democracy? To state the same difficulty in different terms, is consensus something that is possible only through the efforts of strong leaders, or can it follow the more or less smooth workings of a properly constructed organization? A theorist like John Rawls might ask whether, in the absence of personal authority, rules could be conceived according to which such a system might be induced to work. We will here try to reach toward a historical rather than theoretical answer to such questions, as we have from the outset. What have men actually done in real situations when they came upon one another to decide complex matters, found that they disagreed, and that they still had to decide? How has Congress organized itself in order to come up with positive proposals and actually carried them out?

Institutionalization in the Federalist Period:
A House Divided

Nelson Polsby drew attention to the "institutionalization" of Congress, as an analytic category, nearly fifteen years ago.³⁹ For Polsby, the House is not and never really was the mass meeting which the founders probably imagined that it would be.⁴⁰ Instead, his

account draws upon that of Young, Galloway, Harlow and others to depict a body which divided itself up into parts almost immediately upon its inception.⁴¹ For Polsby, the division was entailed by the rapidly expanding realm of responsibilities of the national government. Starting with a government without duties and a Congress without established practices, internal institutions or folkways, he posits something very like Hume's causal connexion in the following hypothesis:

For present purposes, the proposition can probably be rendered as follows: As the responsibilities of the national government grew, as a larger proportion of the national economy was affected by decisions taken at the center, the agencies of the national government institutionalized.⁴²

Shifting from the general to the specific, he continues:

Until a deliberative body has some minimum amount of work to do, the necessity for interaction among its members remains slight, and, having no purpose, coordination by means of a division of labor, rules and regulations, precedents and so on, seem unlikely to develop.⁴³

Institutionalization seems to be a complex process ultimately linked to the work load, in which the mechanisms through which a group organizes itself for the conduct of affairs proliferate in number and increase in refinement. For Polsby, it follows growth in the number of people involved, or greater complexity--he says "density"--in their common affairs. As a response to responsibilities entailed by external events, we note that institutionalization is a way of making it easier for Congress to reach consensus by formalizing and subdividing the processes through which it is reached. A crucial difference between the approaches of Young and Polsby is that Young focuses on poli-

tical dynamics, and Polsby sees the entire phenomenon with reference to problems of organization.⁴⁴

According to Polsby, institutionalization has several determinate characteristics. First, an institutionalized organization is relatively differentiated from its environment, its members are easily identifiable, it is difficult to become a member and the leadership is recruited from within the organization. Second, the internal organization is complex, i. e. , the functions of the whole are separated on some regular and explicit basis and its parts are not wholly interchangeable. There is a division of labor, roles are specified, patterns of recruitment to roles are regularized, and expectations about the performance of roles are widely shared. Third, the organization tends to use automatic rather than discretionary methods for conducting its internal business.⁴⁵ The balance of his article is an effort to support these generalizations with reference to the history of the House.

On the level of this history, he indicates that the growth of complexity in the House can be shown in three ways:

in the growth in the autonomy and importance of committees,
in the growth of specialized agencies of party leadership,
and in the general increase in the provision of various
emoluments and auxiliary aids to members in the form of
office space, salaries, allowances, staff aid and committee
staff.⁴⁶

But what "set off" the process of institutionalization in Congress in the first place? Was there a prompting impulse or spark to this development, or can all be laid at the feet of legislative

complexity and increasing numbers as we have maintained so far? Polsby's account is clear enough, though the process he describes is not simple.⁴⁷ As the institution of the standing committee began to take hold--"the committee system"--other developments exerted similar pressure on Congress to coalesce via the "party system." Alexander Hamilton took control of the administration of George Washington and extended his influence toward men of like mind in Congress. In the first two Congresses, Hamilton is said to have used the Federalist caucus to guide debate in the Committee of the Whole.⁴⁸ Thus we see emerging in nascent form, as early as 1790, one of the most fundamental problems to plague Congress throughout its history: its tendency to seek cohesion of both conduct and policy by abrogating its prerogatives to agents and agencies of the executive branch. Here we see that the gap between the legislature and the executive, created by the constitutional system of separated powers

was thus bridged by the Hamiltonian or Federalist party organization before the First Congress ended. "Instead of being a forum, where every member was a peer and no man led, where great principles of government were evolved through the give and take of unrestricted discussion, Congress as such had become in effect a mere ratifying body. The real work of legislation was put in shape, not in the legislature, but in secret session of the majority party. In this organization, unknown to the Constitution and beyond the reach of the rules of either chamber, the executive could work with the party--following in Congress, and secure the adoption of a prearranged program." [Harlow, 1917:145.] Thus, party tactics, already familiar in state legislatures, made an early appearance in Congress. They attained their peak of perfection a century later under the astute leadership of Speakers Reed and Cannon.⁴⁹

Party tactics, of course, are interbranch tactics and cut

across the lines of institutional distinction drawn by the Constitution. If we take the view that a diversity of interests exists in the U.S., we can hardly be surprised by the appearance of different parties to espouse such different interests. At the same time, however, the Constitutional design for the conduct of government is predicated on the division of governmental agency and its sortition or assignment to different branches. Party necessity undermines this design precisely to the extent that it requires interbranch coordination for the enactment of policy. The danger, of course, is that insofar as Congress may be bumptious and unruly, it could be easier to control events from the White House and impose Congressional discipline from without. Under such conditions, Congress becomes the cart, and the executive branch the horse. The reins of power will be held by the President and the party leadership--a preferable alternative, for some, to seeing them fall into the well of the chambers of the assembled, to be trampled in a legislative melee, or simply shunned.⁵⁰

According to Polsby, Hamilton's use of the Federalist party caucus to guide debate in the Committee of the Whole led to sharp clashes between his followers and those of Jefferson who felt that the House was being stripped of its constitutional authority over finance. When Jefferson's Republicans finally gained the upper hand in the Third Congress in 1792, they restored detailed power over finances to the Committee of the whole. "This," Polsby tells us, "did not work satisfactorily," however, and in the Fourth Congress, a Committee on

Ways and Means was formed.⁵¹ While one would have to turn directly to the archives in order to determine precisely why and in what sense the Committee of the Whole "did not work," Fischer Ames' observations provide evidence sufficient for directing suspicions. I think we can infer that the formation of a standing committee on finance reflected a commitment to the idea of at least starting with procedural agreement in the face of regional and political diversity and conflict within the body coupled with external pressures from the other branch. Indeed, it seems that the appointment of this and other committees can be seen as partially successful strategies by Congress to defend its territory from executive encroachment and to maintain the institutional integrity which was threatened by the derivative sort of power provided through interbranch party organizations. Polsby includes a quotation from Harlow which bears directly upon Republican theories of the proper role of the Congress which I here reproduce in full:

The appointment of . . . standing committees, particularly . . . Ways and Means, was in a way a manifestation of the Republican theory of government. From their point of view, the members of the House, as the direct representatives of the voters, ought to be the mainspring of the whole system. Hitherto, the Federalists had sold their birthright by permitting the executive to take a more active part in the government than was warranted by the Constitution. The Republicans now planned to bring about the proper balance between the different branches, by broadening at once the scope of the operations of the House, and restricting the executive. It was the better to enable the House to take its assigned part that the new type of organization was worked out. Just as the heads of departments were looked upon as agents of the executive, so the committees would be considered as the agents of the House.⁵²

Note that each party, in its own way, had turned to the execu-

tive branch for guidance: the Federalists by working with Hamilton; the Republicans by at first attempting to mimic some of the characteristics of executive branch organization, and ultimately by allowing President Jefferson to exert almost total influence over the appointments of committee chairmen.⁵³ We find, then, that at the earliest stages of the development of Congress, "coordination" between the legislature and the executive was obtained at the behest of the executive; that the earliest precedents show Congress beginning to occupy the role of "patient" with respect to executive agency; that a semblance of Congressional control over policy was obtained by subdividing the tasks of the chamber; and, finally, that the allocation of positions of authority was subject to both party and factional--not to mention executive--influence. These factors add up to "institutionalization," that is, the primitive mass meeting proved unequal to its legislative and political tasks and the internal organization of Congress became increasingly complex as a result. For the somewhat innocent republican, the political consequences were enormous:

. . . the effective decisions on legislative issues were reached behind the scenes in closed caucuses of the majority party. As Federalist Josiah Quincy lamented in 1809, the House "acts and reasons and votes, and performs all the operations of an animated being, and yet, judging from my own perceptions, I cannot refrain from concluding that all great political questions are settled somewhere else than on this floor."⁵⁴

It seems that the gradual emergence of such House institutions as floor leader, committee system and party caucus constituted a

variety of responses to a variety of problems. The committees apparently were essential to consensus-building and the problem of legislative detail, for by 1814, they had become the dominant force in the chamber with respect to legislation;⁵⁵ the caucus and floor leader seem to have risen primarily in response to requirements of the exercise of institutional power and as a direct result of executive branch willingness to impose its programs and views on a disorganized and unwilling assembly.

At this point, the tale begins to grow murky. Quoting from Henry Adams, Young notes that "The whole structure of Mr. Jefferson's administration toppled over and broke to pieces in its last days."⁵⁶ Madison, in his turn, inherited a wreckage comprised of

"New subdivisions and personal factions [in Congress] [which are] equally hostile to yourself and the general welfare . . ." as Secretary Gallatin advised the new President.⁵⁷

Under these circumstances, the President could accomplish little, and the entire government sank into lassitude and inactivity as the pendulum of power swung rapidly from the President to the Congress. Beginning in 1811, this shift was strengthened and confirmed as another House institution emerged which was sufficiently powerful in its own right not only to command the internal affairs of that body, but to eclipse the Presidency itself. This newly-emerging institution was the speakership. With the aid of the War Hawks, Speaker Henry Clay expanded his powers from those of a mere presiding officer to become an active party leader.

Clay for the first time used the speaker's prerogative of

appointment of members to committees independently of Presidential designs. . . . there seems to be no reason to doubt that Clay won for the Speakership a new measure of independence as a power base in the American political system.⁵⁸

Clay's election to this post, and repeated re-election to it, "marked a profound change in its character and in the effective leadership of government."⁵⁹ With this, the nation embarked on a period of Congressional supremacy over the executive, which lasted until the elevation of Jackson in 1829. While the emergence of the speakership was a crucial part of this shift in the balance of power, we have already seen that an impotent Presidency did not entail a strong and institutionally viable Congress. Indeed, Congressional failure to deal adequately with the crisis of 1812 was perhaps the outstanding incident in what can be seen as a long period of dilatory inactivity on the part of Congress. Since Clay's power depended upon his making every committee representative of the general body, and since the general body was riven and paralyzed by faction, the consequences of Congressional supremacy in government did not equal the Constitutional image. A government dominated by the Congress was also rudderless, for the faction-dominated Congress excelled at opposition, but failed utterly at construction. With this, the other side of a great historical pattern seems to have been set: when the Presidency is strong, Congress is led; when Congress predominates, government accomplishes little that is positive. Is this, philosophically speaking, necessary?

Here, analytical distinctions and chronological accounts begin

to become quite blurry. It is true that Congress institutionalized, and that its emerging institutions took on lives and powers of their own before they had been long in place. It is also true that party institutions, i.e., the floor leader and the caucus, seem to have been bound up with the executive branch and its needs at the moment of their inception. The committees, however, and the Speakership itself, came into being as much to oppose the Presidency as to assert something positive with reference to the electorate. Indeed, even the institutions of the party system changed roles in relation to the executive once the balance between the two branches had shifted.

Galloway sums up:

. . . the development of the standing committee system took place in 1816 and thereafter served to facilitate legislative-executive cooperation when cordial relations obtained between Congress and the President, but in times of conflict the committees became agents of legislative oversight and control of the administration. Another contributing factor was the emergence of the congressional party caucus and its use from 1800 through 1824 to nominate party candidates for President and Vice President. This practice tended to subordinate the President to his party leaders in Congress, since he owed his nomination to them, and hence to strengthen their authority in government.⁶⁰

The great question which one would like to have answered, and for which there appears to be no clear answer, is whether the institutionalization of the Congress both enhanced its independence and enabled it to function more effectively. Even the briefest glance at the rest of the nineteenth century affords us no help. Mr. Jackson (1829-1837) was effectively able to dominate the Congress through his use of the appointment power and the veto--despite the lessons

Congress had learned in standing up for itself in the twenty years previous to his election.⁶¹ The period 1837-1860 showed frequent fluctuations in power as the relative strength and weakness of the various Presidents changed, and as the assembled representatives were or were not able to compromise on the overriding issue of slavery. During the Civil War period itself, Lincoln, of course, dominated everything including a Congress effectively comprised of a single party of Republicans radically opposed to him. The Reconstruction period, in its turn, is as famous for the domination of the government by Congress as it is for any of the specific policies then undertaken. At this point, the Radical Republicans used the institutional forces of the assembly to assert their doctrine of legislative supremacy in the Wade-Davis Manifesto:

the authority of Congress is paramount and must be respected; that the whole body of Union men in Congress will not submit to be impeached by him [the President] of rash and unconstitutional legislation; and if he wishes our support he must confine himself to his executive duties--to obey and to execute not to make the laws--to suppress by arms armed rebellion, and leave political reorganization to Congress.⁶²

This manifesto rapidly changed from a statement of intention to a statement of fact when Andrew Johnson succeeded Lincoln and shortly thereafter was impeached for failing to heed the Tenure of Office Act. Congressional power during this period, however, was not asserted so much by the institution as it was by the Republican Party within it, and was focused in particular by

. . . the shrewd management of Thaddeus Stevens of Pennsylvania, leader of the Republicans in the House of Representatives, and for two years the virtual ruler of the United States.⁶³

According to Galloway, Congressional supremacy was to continue without a break through a succession of weak Presidents who were either unable to assert themselves, or perfectly contented to follow the lead of Congress.⁶⁴ The period was characterized by strong Republican leadership in the Congress and a gradual but continuous strengthening of control over legislation by the various standing committees. Although it is difficult to determine precisely from the record, I think it not unreasonable to infer that this next stage in the development of internal House institutions was related to its simultaneous external dominance over the executive branch: a superordinate Congress presented vastly enriched opportunities for public notoreity compared with a subordinate one, and as the nineteenth century wore on, the individual members gradually began to lengthen their stays, and House career patterns began to change.

By 1899 . . . the proportion of newcomers among the 357 members entering the House had fallen to 30 per cent, while the mean period of service had increased to more than three terms. As more members sought to stay in the House for longer periods, it became of increasing importance to them that they have the opportunity to gain political recognition through specialization and rising influence within the committee structure. There was thus a growing demand among members of both parties for assurance that their seniority would be respected in assigning them rank on committees of their choice. The resulting new expectations contributed to the reaction against centralization that began under Speaker Cannon.⁶⁵

From the days of Thaddeus Stevens to the revolt against Speaker Cannon in 1910--of which we will hear more below--the power of the speaker to appoint committee chairs had been gradually subjected to increasing pressure by the chairmen on behalf of the seniority

system.

As more and more members made careers out of congressional service, their committee memberships and leadership posts opened routes of advancement within Congress. In order to regularize these internal career ladders, the seniority "rule" became virtually inviolable.⁶⁶

This development, which consumed a period of decades, finally brought into being one of the major characteristics of the contemporary House of Representatives, and institutionalized forces for decentralization of power within the chamber which cut across the previously existing lines of political conflict and tension. We have seen that geographical and social factions within the Congress were capable of paralyzing it; we have seen that party discipline and the Speakership were capable of uniting it to successfully oppose, and sometimes even to dominate, the executive branch; we have seen that this same party apparatus could be effectively turned to suit executive branch purposes at some times but not at others. Now we find an entirely new basis for centrifugal forces within the chamber: the self-interest of the individual member and his pursuit of his own career. This element was to grow in power and influence until it was successfully able to assert its decentralizing claims against the office of the Speaker in 1910. It was to provide precedents for later House revolts against centralized power and authority as the twentieth century wore on. Occasionally, it was to provide arenas for the legitimate airing of public grievances which otherwise would have gone unnoticed, and as such, contributed to the preservation of the institutional strength of the legislature. But these developments, as well

as the forces they unleashed and expressed, were highly uneven in their influences and subject to seasonal changes and cycles of influence and power. We will take up those cycles in their turn, but before doing so, I think it important to turn to the work of Woodrow Wilson, who observed Congress during the late-nineteenth century period of its dominance over the Presidency and in the midst of the rise to power of the committee chairmen.

The Culmination of A Century's Experiment:
Woodrow Wilson's Critique of Government by Standing Committee

In turning to Wilson, we leap a considerable historical distance from the practices of the Federalist period, to the beginnings of contemporary American political science. Wilson is important because he is the first "modern" political scientist to give us a picture of a fully institutionalized House. At the same time, however, he carries forward into the twentieth century some of the political values of the eighteenth. The generation of Wilson --which can be seen to have included Neitzsche, Weber and Henry Adams--faced life at a crucial historical moment when the foundations of our modern parliamentary democracy were being laid in an age of high capitalism. This generation of scholars and intellectuals held a vantage point unavailable to its successors: raised by citizens of a relatively simple society, they stood witness to the sudden overturning of an old world, conceived and built on a human scale, by a new one as technically and powerfully superior to it as the dynamo was to the horse

and steam-engine it replaced. But, as Henry Adams pointed out, there was also a shadow here: the power was all on the technical side, in the instrumentalities of human creation and not in the men themselves. Hence the emerging world, infinitely more complex than what it surpassed, presented the humanist sensibility of this generation with a dilemma: to put the problem in American terms, was it possible to preserve the spirit of the old Republic in the new containers of technical proficiency and institutional complexity that were entailed by the emerging new order? Could the values of public participation and self-government be preserved in an environment of high technology, world empire and corporate power? Could men retain control over their collective destinies and remain men, as history--going clear back to the time of Pericles--told them they had to be? Or would we strike the usual Faustian bargain with our organizational machinery, and exchange our political liberties for the technical mastery of human events made possible by the technical mastery of nature? Wilson's generation bore witness to the initial phases of the reconstruction of our institutions of self-government on technical lines.

None of these factors, of course, can be found anywhere in the manifest content of Wilson's Congressional Government, but I take them to be among the set of general background conditions that made up the historical moment in which the book was written. Without the benefit of this or a similar set of assumptions, how can we account for what we find in Wilson: the richness of the language, the concern with matters of debate and civility; his analysis of the structural deficien-

cies and lapses from Constitutional prescription evident in the Congressional practices of his day; his careful and passionate rehearsal of republican values. The brevity of the book enables it to stand as a pithy presentation of the fundamental problems which confronted the modern Congress at the beginning of the twentieth century. Nearly every student of that body begins here.⁶⁷

However, for the serious student of modern government, Wilson's book has many of the characteristics of a primer: it presents an overall description of the customs, mores and institutional potentialities and liabilities of the Congress. It is neither painstakingly researched nor copiously annotated; the narrative voice constantly assumes the tones of instruction rather than of discussion, and it is clearly written to the general, rather than to the academic or specialized audience. In it, the serious student will find expressed the values, but not the theory of representative government.

The value of Wilson's arguments for us is that they demonstrate that what many commentators have taken to be fundamental changes within the institution of Congress are really fluctuations endemic to its institutional being--i.e., necessary consequences of imbalances in power which are entailed by the design of the Constitution. On this reading, then, such fluctuations are essential to the basic nature of Congress. For us this means that the ebbs and flows in Congressional fortunes, first with respect to the distribution of power among the various institutions within the body, and second in the balance of power between Congress and the rest of the

government itself, are perhaps better measured by the generation or even by the half-century than they are by the recurring "realignments" and reforms which more frequently disturb both the institution and its students.⁶⁸

For Wilson, the primary fact about the U.S. government of his day was to be found in the depotism of the Congress over the rest:

. . . to adopt Mr. Bagehot's description of Parliament . . . "Congress is nothing less than a big meeting of more or less idle people. In proportion as you give it power it will inquire into everything, settle everything, meddle in everything. In an ordinary despotism the powers of the despot are limited by his bodily capacity, and by the calls of pleasure; he is but one man; there are but twelve hours in his day and he is not disposed to employ more than a small part in dull business: he keeps the rest for the court, or the harem, or for society. " But Congress "is a despot who has unlimited time--who has unlimited vanity--who has, or believes he has, unlimited comprehension--whose pleasure is in action, whose life is work."⁶⁹

This despotism is a consequence of the ascendancy which the central government established over the states as a consequence of the civil war;⁷⁰ an ascendancy now compounded by a distinct movement in favor of national control of all policy requiring uniformity of treatment and power of administration.⁷¹ Given these developments, and a liberal interpretation of the implied powers clause,⁷² Congress has become capable of conferring on the federal government powers of almost any extent. The next move in his analysis is crucial: Congress early divided itself into standing committees and conferred upon them comprehensive and thorough-going privileges of legislative initiative and control.⁷³ As a result of this, we now have government by standing committees of Congress.⁷⁴ The leaders of the House, there-

fore, are the chairmen of its principle standing committees.⁷⁵

Both the House of Representatives and the Senate conduct their business by what may, figuratively, but not inaccurately, be called an odd device of disintegration. The House virtually both deliberates and legislates in small sections. Time would fail it to discuss all the bills brought in, for they every session number thousands; and it is to be doubted whether, even if time allowed, the ordinary processes of debate and amendment would suffice to sift the chaff from the wheat in the bushels of bills every week piled upon the clerk's desk. Accordingly, no futile attempt is made to do anything of the kind. The work is parcelled out, most of it to the forty-seven Standing Committees which constitute the regular organization of the House.⁷⁶

Thus Wilson finally sets the stage for a number of substantive criticisms of Congress. Wilson does not say that the organization of Congress into committees was a consequence of its inability to create majorities within the general body. He simply lets it go that this form of organization was adopted for purposes of efficiency.⁷⁷ What he does say, however, is that this form of organization constitutes a structure of power which prevents cooperation⁷⁸ and places the great power to formulate legislation in the hands of small groups.⁷⁹ This has the crucial consequence of making general debate before the assembled body impossible.

The practices of debate which prevail in its legislative assembly are manifestly of the utmost importance to a self-governing people; for that legislation which is not thoroughly discussed by the legislating body is practically done in a corner.⁸⁰

At this point, of course, it is difficult not to recall the complaints Josiah Quincy penned in 1809. For Wilson, once under the sway of the committees, freedom of debate finds "no place of allowance," for the House must consider the reports of 47 committees.

The order of business is fixed; each member must content himself with "such crumbs of time as fall from the tables of the four committees of highest prerogative. "⁸¹

What emerges as one of Wilson's central themes is an overwhelming preoccupation with the problem of what constitutes a true public debate, and with the consequences that such a peculiar form of discourse has or can have for the political order.⁸² I think that one could sum up Wilson's study without doing violence to either his positions or his intentions by saying that he affords us a characterization of Congress as a public body without a public space.⁸³ For Wilson, the essential purpose of an assembly is to enable a "mass meeting" of representatives to superintend administration and get good laws made.⁸⁴ Such a meeting, of course, must be conducted in full public view, and the quality of the debates among the membership will determine the quality of the decisions they make. Since, however, "the committees meet in private,"⁸⁵ the kind of debate essential to the making of good laws does not exist, and Congress, despite its domination of the rest of government, is incapable of carrying out the purposes for which it was instituted.

Wilson's critique is interesting because we can use it to show that the term "public" is commonly used in two senses. First, in relation to the nature of the debates inside the Congress, he indicates that "public" applies to those discussions conducted in the presence of the general body. This is contrasted with what goes on in the dark corners of committee rooms. Second, and equally important,

Wilson's notion of "public" concerns that body of educated mass opinion in the name of which Congress conducts its business, and in the eyes of which its movements and deliberations must be visible. For purposes of expedience of expression, we will call the first sense of "public" "Public₁" and the second sense, "Public₂." "Public₁" speech here is something that takes place in Public₁ spaces in order to determine the courses of action that the body in question will undertake or recommend. "Public₂" law or policy is what issues from the deliberations of "Public₁" bodies: it involves the general order and indicates both the alert constituency which follows the debates of the legislature from a distance, and all of those citizens upon whom such legislative prescriptions will fall with equal weight. In the first place, then, Public₁ speech must take place before the entire body assembled; further, it must reach the ears of the general Public₂. Public₁ ultimately arises out of the deliberative function of a more-or-less-democratically-constituted-assembly; Public₂ concerns those in whose name that body acts, and could not exist without a "representative" form of government. Should either Public₁ or Public₂ be severely circumscribed in its political functions, dire consequences shall eventually appear first in the content of legislation and later throughout the country. Though failing to explicitly distinguish between the two senses of "public," Wilson nonetheless finds that the partition of Congressional activities--the loss of Public₁--seriously undermines its responsibility to make its proceedings and conclusions clear to its constituency, that is, Public₂.

The speeches made before the Committees at their open sessions are, therefore, scarcely of such a kind as would be instructive to the public, and on that account worth publishing. They are as a rule the pleas of special pleaders, the arguments of advocates. They have about them none of the searching, critical, illuminating character of the higher order of parliamentary debate, in which men are pitted against each other as equals, and urged to sharp contest and masterful strife by the inspiration of political principle and personal ambition, through the rivalry of parties and the competition of policies. They represent a joust between antagonistic interests, not a contest of principles. They could scarcely either inform or elevate public opinion.⁸⁶

Responsible for the formation of national policy, Wilson's Congress not only fails to fulfill its didactic purpose (about which the Constitution is silent, however) but has also so structured itself that low interests are served at the expense of high principles. One alleged consequence of this sheds light on Wilson's conceptions of what constitutes a truly "national" policy, and concerns the germ of a theory of what he considers the proper extent of the legitimate range of governmental activity. Wilson excoriates our representatives for

. . . the establishment of the very questionable precedent of expending in favored localities monies raised by taxation which bears with equal incidence upon the people of all sections of the country.⁸⁷

Wilson's objection to such practices may strike the liberal student of contemporary government as somewhat bizarre, for it contains a theory of the common interest which is not linked to notions of distributive justice. What's at stake here is whether, and under what conditions, benefits locally disbursed can be said to be in the "common" or national interest at all. If grants of this character can fairly be considered as made for the common benefit of all the states,

it can only be because all the states are interested in the welfare of each; or it must be the case that certain local expenditures will redound to the benefit of everyone, as was widely assumed with the canal building projects of the early nineteenth century, and has been recently assumed with respect to the dredging of the harbor at Hampton Roads, Virginia, which will enhance the nation's coal-exporting capacity and improve its balance of payments. The problem, however, is that carried to political extremes, such practices may destroy all distinction between local and national matters of concern. At the time of writing Congressional Government, it seems that Wilson cared less for the increasing economic interdependence of the various states, and the need that this entailed for federal projects beyond the means of any particular state, than he did for notions of a national government limited in scope, and a polity not dominated by any particular set of interests which could control any single branch of the government.

Thus, the redistribution of goods from the whole to selected localities did not comprise national policy for Wilson. National policy, we must infer, included only those things which concerned the nation as a whole; tax monies unequally disbursed may have struck him as a form of corruption which the entire body of legislators in Congress assembled ought to have been able to resist. Of course, such notions no longer comprise the prevailing liberal theory of government according to which such payments and projects are not only desirable but necessary. However he could have spelled it out, Wilson's body of

assumptions about the proper relation between the state and society, between the whole and its constituent parts, is profoundly different from that which characterizes most of professional political science, and Congressional liberals and conservatives alike. What we have come to take for granted--and earlier generations did not--is the assumption that one of the primary duties of government is to distribute goods and services, and this is coupled with the wry, if not eager, Congressional acceptance of the obvious necessity that such goods will be dispensed unevenly and locally.⁸⁸ Another label for the whole problem is "the struggle to maintain representative incumbency."

What makes the raising of this issue particularly difficult is that regardless of what their respective evaluations of Congressional performance may be, contemporary students almost without exception indicate that the one thing Congress rarely botches up is getting the goods to the special interests. But nonetheless, this is a fundamental question, and for students of U.S. government in the latter part of the twentieth century, it may well be the central question. It contains an issue not often confronted within the republican political tradition itself, and that issue is hidden in the faith that a "common" interest will somehow emerge once the diversity of particular interests has been transsubstantiated by their clash in the public space. Wilson would have the representatives somehow leave their particular interests behind and argue from principle to the defense of the national interest. Aside from being a doctrine of virtual representation, this approach begs two political questions. First,

according to the Constitution, individuals are not that which is represented in the Congress, nor is that mystical entity known as the "American people." Local districts are represented there. The second question going begging is the consensus question which must be settled for both the Public₁ of the Congress and the Public₂ of the nation: how is it possible to build majorities among heterogeneous unlike representatives and build a sense of national union sufficient to sustain the government in power without the chicaneries of bargaining, compromise and tradeoffs among local and special interests? To follow Wilson's prescription, the individual member of Congress not only would have to abandon the articulated needs of his district--upon which he depends for reelection--but the Congress as a whole would have to completely reassess what it could consider "justiciable" issues, and perhaps restrict the scope of its activities to all and only those areas of policy, such as defense or the post office, which tangibly affect all citizens in Public₂ in approximately the same ways.

Despite these reservations about Wilson, the thrust of my own critique of Congress is that it has so evolved by now that it is virtually incapable of addressing the broadest and most general kind of questions, having been driven by headlong institutionalization to virtuoso performances on matters of special interest; virtual paralysis on the larger questions. Between Wilson's principled critique and contemporary practice, of course, lies the abyss into which we shall poke about for a bit, however cautiously, in an effort to find some

middle ground. The student of Congress notes, however, that Wilson must be given credit for having pointed the finger at the primary circumstance underlying the growing crisis in American political institutions: if we use the Congress as a battleground in a war of each against all, and its decisions to reflect the distribution of a modicum of goods by all to each, the devil will take the "common interest." There will be more about this when we reach our discussion of the spending and budget processes.

Twentieth Century Contests for Power

As the Congress crept forward into the twentieth century, the power relations among its internal institutions began shifting. First, the speakership took an immense leap in its ability to control the chamber; then, buttressed by the seniority system, the committee chairmen began to move against that officer; finally the hoi polloi attempted intermittently to break ranks from either the hierarchy imposed by the committees or that settled upon them by the parties or both. Such efforts were episodic and met with mixed success. What we see occurring in general during this period is a contest between local district need and the discipline imposed on the membership by the national parties. According to Morris Fiorina,

. . . curbs on the arbitrary powers of the national party leadership at the beginning of this century were a natural outgrowth of the increasing professionalization of congressmen. With more and more congressmen wishing to retain their seats for long periods, iron party discipline became intolerable. The individual congressman desired the

flexibility to follow the wishes of his district when party-district conflicts arose. Moreover, taking power from the hands of the party leadership and spreading it more widely around the chamber gave individual members a greater opportunity to take actions to enhance their reelection efforts. The seniority system was the natural response to a group of budding career congressmen. Power was distributed more widely to a larger group of standing committee chairmen. (There were about 60 standing committees in 1910) who would attain their positions by the automatic workings of the seniority system. Acceptance of the seniority system gave local districts the upper hand over the national parties in the U. S. Congress.⁸⁹

We are at this point somewhere around the middle of that period of Congressional dominance of the executive branch which lasted from 1865 to 1898, a period characterized by widespread acceptance in Washington of the doctrine of congressional supremacy.⁹⁰ Again, however, as we saw during the period which lasted from the end of Jefferson's tenure in office to the beginning of Jackson's, Congressional power did not translate into Congressional leadership. In the first case, the paralysis has been traced to the obstructionist tactics of the various House factions, and to Clay's successful efforts to appease them. In this case, Congressional paralysis was due to the obstructionist tactics of the chairmen of the various committees who, thanks to the effects of institutionalization, were able to exercise pluralistic dominance. Galloway quotes Binkley's picture of the situation:

The culmination of this vast assumption of power by Congress in the 1880s coincided almost exactly with the decline of the lower house to almost the nadir of incompetence. Despite its assumption of sovereign power in the government, it lay floundering in a confusion of warring committees. Spurning all suggestion of external leadership, it yet found no trace of leadership within. . . . The cause of the confusion lay in

the fact that no rational system had been devised for sifting bills for consideration by the House. Consequently among the tens of thousands of measures introduced during a session something like sheer caprice had come to determine which should reach the floor for consideration and vote. . . . The situation drew from Representative Thomas B. Reed the caustic remark that the "only way to do business inside the rules is to suspend the rules. . . . The object of the rules appears to be to prevent the transaction of business."⁹¹

When Reed himself ascended to the speakership, he moved rapidly to change everything and made the Committee on Rules his chosen instrument. The two major tactics in current use by those who would block House action were the disappearing quorum, created by members physically present and refusing to vote, and who thereby denied the body a quorum; and dilatory motions, which included quorum calls and other parliamentary manouvers designed to delay the speedy execution of business. Moving to overturn these practices, Reed was challenged by the minority Democrats. The ensuing dialogue encapsulates the dilemmas faced by the House as it confronts the problem of positive action:

The Democrats, led by Crisp and ex-speaker Carlisle, defended the traditional House practices, stressing the minority's need for protection from arbitrary majority rule. The chief Republican spokesmen, Joseph Cannon of Illinois and William McKinley of Ohio, argued that the majority must be given the power to govern. Reed's ruling was finally upheld by a party-line vote.⁹²

Reed ruled with an iron hand for six years, and the precedents he established were generally followed by his successors Crisp and Cannon. He thus filled the vacuum of leadership in the government at Washington and established Congressional dominance over Chief Executives Harrison and Cleveland. Galloway's brief account of the

period of Congressional Government (1865-1898) indicates that, in general, a contest for power between Congress and the President occupied much time and attention, and a legislative history of these years would show little accomplished of outstanding merit. Weak dominated Presidents, or those who harbored the old Whig doctrines within their breasts did not, again, create an atmosphere in which the Congress could use its overwhelming powers for productive work.⁹³

Matters shifted to a new footing with the assession of McKinley, who had served six terms in Congress prior to his elevation, and who was interested in cultivating the assembly and knew how to work with it. He quickly fell into step with Joseph Cannon, who became Speaker in 1903, and who exercised uniquely enormous and legendary power over the House.

Joseph Gurley Cannon, from Danville, Illinois, was a hard-shell Republican who adhered to the principles that underlay the founding of the Grand Old Party--the Union cause, low-cost western lands, high tariffs, and minimal governmental involvement in social programs. His failure to bend these principles to the winds of changing times, in fact was one reason he failed to preserve the powers he had inherited.⁹⁴

As beneficiary of the Reed rules, Cannon enjoyed such powers as appointing committees, designating chairmen, referring bills to committees, sitting as Chairman of Rules, and determining who would speak on the floor. As the years went by, Cannon's use of his powers began to verge on the dictatorial, and he was forced to call on them with increasing urgency in his attempts to block the reform movements that gathered force during Theodore Roosevelt's presidency. Standing with the orthodox Republican "stand-patters" the speaker successfully

blocked the strenuous efforts of reform minded representatives to extend the sphere of Federal action to such arcane areas as food and drug laws, income and inheritance taxes, federal investigation of labor disputes, liscensing of corporations and child labor laws.⁹⁵

But this impasse couldn't last: the insurgent hoi polloi in the House were responding to constituency pressures, and by the time that Taft had succeeded Roosevelt, the new movement had begun to break out among certain Midwest Republicans as well, and the fat was in the fire.

Cannon's opponents now consisted not only of members from the majority party per se, but comprised a new majority of House members of both parties.⁹⁶ As the resentment of Cannon and his control of the chamber finally boiled over in the form of an important reform resolution, representative John Nelson of Wisconsin summed up the feelings of the insurgents:

Have we not been punished by every means at the disposal of the powerful House organization? Members long chairmen of important committees, others holding high rank--all with records of faithful and efficient party service to their credit--have been ruthlessly removed, deposed and humiliated before their constituencies and the country because, forsooth, they would not cringe or crawl before the arbitrary power of the Speaker and his House machine. . . . We are fighting with our Democratic brethren for the common right of equal representation in this House, and for the right of way of progressive legislation in Congress.⁹⁷

The upshot was the famous "Revolt of 1910" which issued in the revocation of many of the prerogatives of the Speaker, including his seat on the Rules Committee, and his powers to make committee assignments and to schedule floor debates. With these reforms, the decentralization of power in the House and the professionalization of

the members had taken a huge step: committee autonomy and seniority careerism became pervasive, and the seniority principle as the major criterion for the selection of committee chairmen became virtually inviolable.⁹⁸ Although this meant further institutionalization in the formal sense--i. e. , the "personal" power of the speaker had now been supplanted by the "impersonal" mechanism of the seniority rule--this change did little to alter the daily modus vivendi of leadership that continued to be characterized by contemporary observers as "invisible or in commission."⁹⁹ As things stood at this point, then, the increased professionalism of individual members made them more sensitive to constituency pressure, and more likely to respond to the reform movements which were then agitating for changes in the social role of government. As a result, the concentration of power in the Speakership now for the first time had become a real impediment to House action--that is, its manifest ability to enhance House power of twenty years earlier had been negated. That the reform movement itself was bipartisan yielded little comfort to the party caucuses, and one might have expected to see a general erosion of House institutionalization had not the Rules Committee emerged at this point to take up again in daily practice what the other organs of the chamber had so recently lain down.

As House business burgeoned and the calendars bulged with bills awaiting action, Rules became more crucial than ever in regulating the flow of business to the floor. Its chairmen wielded even more power than in the days of Reed and Cannon, including the power to

"pocket veto" bills approved by their own committee, or to defy the caucus for whom they were nominal agents.¹⁰⁰

Davidson and Oleszek point out that the enhanced power of the Rules Committee made it guilty of greater abuses after the 1910 revolt than the Speaker had committed before¹⁰¹--and we should therefore take note that the unintended consequences of reform movements always may include factors which make the cure worse than the disease. The zenith of Rules Committee independence occurred during the 1937-1961 period, when it became dominated by a bipartisan conservative coalition and acted as a semi-institutionalized constraint upon both Democratic Party leadership and the succession of Speakers who served during this period.

. . . the House explicitly rejected [institutionalized leadership] in 1910 and by 1919 had abandoned the alternative of caucus control as well. Although partisan leadership was not impossible, the most successful leaders were those who like House Speaker Sam Rayburn (1940-1946, 1949-1952, 1955-1961) and Senate Majority Leader Lyndon Johnson (1954-1961), bargained skillfully with committee leaders and represented their interests.¹⁰²

With the institutionalization of seniority and the automatic promotion came a formal decentralization of power quite unlike anything which had existed previously in the House.¹⁰³ The ultimate outcome of the Cannon revolt was to strengthen committee autonomy and independence and weaken House leadership and the party system. In the very earliest period of House history, before the asession of Monroe, House power had been decentralized, and the capacity of the body to take the initiative with respect to important policy questions had

been weak to the point of chaos. Now we see a return to formal decentralization after years of powerful speakers in another period of Congressional dominance in government, and again centrifugal forces seem to make positive legislative movement next to impossible. Although the reformist or progressive impulses which swept the country and its legislators succeeded in passing much extremely important legislation during this period, I think it crucial to distinguish between ordinary and extraordinary times: in moments of national crisis, Congress occasionally has shown itself capable of throwing caution to the winds and acting. The deeper and more difficult dilemma rises with respect to the problem of positive action in ordinary times: even when aided and abetted by willing Chief Executives, the Congress has, for much of its history, been unable to conduct itself along lines of equal representation and participation for its membership and simultaneously take active responsibility for domestic policy.

The decline of the Speaker and the rise of the committee system moved the House not one whit closer to becoming the kind of public₁ body which Wilson had maintained was essential to good government. The difference lay in the fact that the earliest absence of centralization reflected the general will of the membership, which stubbornly refused to be guided or coerced by authority. The revolt of 1910, on the other hand, had the consequence of weakening the Speaker, and therefore the grip of the national parties over the legislature, yet it did not succeed in doing away with the often

hierarchical arrangements against which many of the representatives had allied themselves. That the Rules Committee and the various committee chairmen were able to continue to assert a dependable dominion over their fellows indicates that the struggle over the Speakership was ultimately about whether power would be centralized or decentralized within the chamber: it was not about democracy for the representatives. What continued to matter was control: policy would not be coalesced by a heterogeneous body of individual members of Congress; it would be enacted by relatively well-drilled minions at the behest of senior men, whose public careers depended in part on the status conferred through the exercise of power. The efficacy of this House organization can be seen in the disciplining of the Progressives by the Republicans, 1924-1925; in the blocking of the Norris amendment by the same party during the 1920s; in the struggle over reapportionment which lasted from 1920 to 1929, and finally in the imposition of Gag rules on the hoi polloi by the Democrats in 1933.¹⁰⁴

As happens with so many "reforms," however, the 1910-1911 revolution produced problems of its own--or rather, placed the dilemma of House organization in a different light. The most important single result was, of course, to reinforce the particularistic tendencies of the body. True, neither Reed nor Cannon had ruled alone, preferring rather to rely upon a small coterie of lieutenants; nor, for that matter were post-Cannon Speakers barred from exerting a leadership role. Nonetheless the circle of leadership was perceptibly widened to include such people as the floor leader, the chairmen of key committees like Rules, Ways and Means, and Appropriations, and, during the 1920s, members of the Republican Steering Committee. To the extent that influence shifted to seniority leaders rather than elective ones, power was not only dispersed but autonomous as well. "Nowadays," wrote Robert Luce in 1926, "the leadership of the House is in commission, with the membership of the commission more or less fluctuating and shadowy."¹⁰⁵

Davidson and Oleszek go on to point out that an important consequence of the new arrangements was a very real decline in the possibility of pushing "national programs" through Congress. First the Speakership--an arm of the party--had been vitiated. Then the Party Caucus was tried, only to founder on the factionalism which reigned throughout this period. Since stable partisan majorities no longer confronted one another on most issues, the caucuses were unable to achieve party cohesion within their ranks. These developments led to the heightened independence of individual members and diminished party loyalty.¹⁰⁶ What must be stressed is that this member independence existed with respect to programs of a national interest, i.e., that despite the organizational changes and fluctuations of Congressional power which had taken place since the writing of Congressional Government, Wilson's primary objections to Congressional practices were still applicable. As one early student put it, "freedom from party control meant freedom from assuming responsibility for a national program."¹⁰⁷ The specialized tasks of the committees and the often self-interested perspectives of the committee chairmen continued to be well served. These individuals not only controlled the outcome of legislation in their respective areas, they were generally able to categorically assert their powers in the face of united opposition from below--whether that opposition be based in the committee, or throughout the chamber. While the following quotation does not describe the attitude of every chairman during these years, it does illustrate both widespread attitudes and the real distribution of

power which, of course, only becomes clear at moments of acute disagreement. Here is House Rules Chairman Philip P. Campbell of Kansas refusing to report a number of resolutions, approved by a majority of his committee, to authorize certain investigations:

You can go to hell. It makes no difference what a majority of you decide. If it meets with my disapproval, it shall not be done. I am the committee. In me repose absolute obstructive powers.¹⁰⁸

So much for the view from above. From below, of course, perspectives were reversed, even while the hostility was no less healthy. Since hierarchical power arrangements have been equally tantalizing to both Republicans and Democrats, we may safely assume that the following vainly-expressed sentiments against the Republican party hierarchy were felt at least as often as they were expressed by Democrats as well. Here are the members of the Progressive Wisconsin delegation upon finding themselves subject to stringent discipline in 1925:

The Wisconsin delegation in Congress today finds itself challenged by those assuming to be in control of the Republican party by threats and intimidation on the one hand and by the offer of party recognition with its favors and patronage on the other. We refuse to compromise, or to bargain with Mr. Longworth or with any other Member of the House on an issue affecting our rights as Representatives in Congress to vote our convictions. . . . Neither flattery nor suggestions concerning committee assignments nor threats will cause the Wisconsin delegation in the House to deviate.¹⁰⁹

The foregoing quotations should provide some indication of the rich qualities of mutual animosity which often erupted between those who looked down and those who looked up at one another within the House. It is clear from both this and other evidence that when debate

concerned matters of import for the leadership, "consensus" throughout this period was not evoked but created through the suppression of dissent.

In general, then, the new arrangements inaugurated what Roger Davidson has called the "era of the Committee chairman"--that is, the period 1937-1971 which marked the zenith of committee government; that period during which those strong enough to seize them were wont to exercise the prerogatives of power so clearly articulated by representative Campbell above. We have now seen the locus of power move away from the floor, away from the speaker and finally even away from the party caucus; away from the practical possibility that the general membership of the House might assert control over the formal arrangements of legislating. Instead, power is now ledged either in the hands of the chairmen of the various committees, or in the Rules Committee, itself controlled by a conservative coalition of Democrats and Republicans. From time to time, of course, we hear cries of rage or anguish rising from those quarters which usually found themselves flagellated into obedience, and such cries indicate that all-too-often the House had circumvented anarchy only to divest individual members of a considerable degree of freedom.

At the same time, this system, historical in its origins and peculiar in its attributes, came to be endowed with something like an "ontological" permanence by members of the political science profession, finally coming to be seen as "Congress" itself, rather than as one of a number of theoretically possible formulas for the internal

arrangements of power there. Perhaps this conflation of historical accident with institutional essence--which was also a professional suppression of awareness of the political forces both masked and arranged by House institutionalization at this stage--was due to the longevity of the arrangements. During this period, several generations of academic observers fledged and molted, and initiated their own graduate students into the mysteries of Capitol Hill in turn. And the committee system and the autocratic power of its chairmen and the wondrous emanations of the Rules Committee persisted and flourished for them to study. It was not until Congress became severely out of step with crucial elements of national sentiment during the Viet Nam war period that geological forces once again came into motion and the strata of 35 years' practice began to melt and flow. This is neither to say that the House had not had its professional critics all along, nor to deny a swelling tide of professional and political criticism of the ineffectiveness of the House qua institution. But what actually happened, under extraordinary circumstances not unlike those of 1910, was that reforms followed in the wake of pressing urgency to deal with national questions and a series of national crises, and this urgency manifested itself in the reforms of the late 1960s and early 1970s. If there is a lesson in this history, it is that the House either will not or cannot stir itself to reform itself in ordinary times, and that given a leadership vacuum without, it has shown itself unable to generate the institutional coherence necessary for positive action from within.¹¹⁰

Interbranch Relations: A Story of Unceasing
House Decline in the Twentieth Century

The importance of the relationship between Congress and the executive branch--and the difficulty of making clean distinctions between the "internal" affairs of Congress and exogenous influences upon either its institutional fate or internal development"--becomes clear when we look at some of the so-called "reform" movements which have surfaced within the institution from time to time during the last fifty years.¹¹¹ It was the case for both the Legislative Reorganization Act of 1946 and the succession of reform movements which transformed the House between 1965 and 1975, that a primary impetus involved the members' consciously expressed concern that the balance of powers between the legislative and executive branches be set right. In the view of many members, Congress suffered from a plethora of procedural, substantive and hierarchical ills which required remedy if it were to carry out its Constitutionally mandated functions. Chief among these was its incapacity to perform any other than a negative role in government with respect to the initiation of broad policy.

In this section, we will briefly examine some of the major steps which the Congress has taken on the way to turning substantive and extraordinary power over to the executive branch; succeeding steps to recover itself; some of the unintended consequences which followed from these, and the conditions which held there--for both the membership and the political science profession--at the onset of the

liberal reform movement which has recently succeeded in changing so much.

We have already touched briefly on some of the obvious high points in the pendulum swings of power between the Congress and the Presidency during the nineteenth century. The twentieth century tells a somewhat different story, one which I think reflects almost uninterrupted decline in Congressional power and influence and which has left us with profoundly changed attitudes about what constitutes proper relations between the two branches, and where responsibility for the initiation of policy should lie. The causes of this decline can be found in a series of actions, incrementally taken decade by decade, to transfer primary responsibility for the initiation and execution of key governmental functions away from the legislature and to the executive. The rationales behind such shifts have usually been accompanied either by allegations or demonstrations of breakdown in the efficacy of House action. This substantial shift in power can be most clearly seen in what I call the structure of interbranch relations, i.e., in the institutionalization of agency outside the Congress, but not in veto-overrides, bipartisan consultations or periods when the executive and the legislature found themselves members of different parties and struggled with one another to accomplish little until the next election could come along and throw the ball decisively into someone's court. Examples of the kind of changes in the structure of relations I think important include both the Budget and Accounting Act of 1921, and the behavior of the House during

Franklin Roosevelt's first term. Each provides evidence of House confusion and a surrender of substantive powers to the executive branch. The Legislative Reorganization Act of 1946 and the reforms which swept the lower chamber in the early 1970s were both collective attempts to remedy imbalances which followed upon the first two.¹¹²

Beginning as early as 1900, the prerogatives which Congress had enjoyed, if not exercised, nearly without challenge since the Civil War came under repeated and increasing pressure by a series of "strong" presidents--including McKinley, T. Roosevelt and Wilson--who had their own ideas about necessary programs, foreign policy, and the locus of primary responsibility for initiating and controlling domestic policy.. In summing up the entire period since then, Robert Dahl has written:

In the twentieth century, not only has the President broken the monopoly of Congress over policy--and, of course, over appointments--but . . . he has largely taken command over the initiation of new policies.¹¹³

By far the most important place to find evidence for this is in the budgetary process. Until 1920, there was no central system for drawing up the federal budget or for its consideration by Congress. The Secretary of the Treasury would compile estimates of the spending needs of the various executive departments, and these were submitted to the House, which in turn referred them to eight different committees, each of which would report an appropriation bill without reference to total expenditures or revenues. The cumulative results of these practices was a steadily growing national debt which, by 1919

had reached the then astronomical sum of \$25 billion, amidst a rising tide of criticism from both the well of the House and the country at large.¹¹⁴ A bill finally passed, and signed by President Harding, became the Budget and Accounting Act of 1921. The measure directed the President to prepare and transmit to Congress each year a budget showing federal revenues and expenditures for the previous and current years and estimates for the succeeding year. It set up a Bureau of the Budget as the executive agency which would do the actual work, and created a General Accounting Office to assist Congress in exercising oversight of the administration of federal funds and therefore the implementation of policy. Almost at a stroke, then, the power of Congress to set policy through stipulating spending levels was transferred away: "the president's exclusive jurisdiction over budget totals gave him an advantage over Congress for half a century."¹¹⁵ The consequences would be incalculable.

The student of Congress is never certain whether the plethora of viewpoints which can be brought to bear on a given issue or moment in history is a blessing or a curse. Despite the foregoing evaluation of the 1921 act, and the general assessment that here, if anywhere, began the real erosion of Congressional power which has taken place in the twentieth century, many who were on the scene at the time hailed it as a breakthrough which enhanced both the prestige and the real power of the Congress. All we can do is to note, again, that presently apparent future goods are particularly elusive when it comes to Congressional reforms.

In launching the new executive budget system in 1921, the House of Representatives streamlined its fiscal machinery, consolidating control of appropriations in a single Committee on Appropriations which closely scrutinized the President's estimates and enhanced the prestige of the House. "For the first time since Joseph G. Cannon had been tumbled from the throne of Blaine and Reed," wrote George R. Brown, "there was an individual in the House [the chairman of the Appropriations Committee] who could put on his hat and walk to the other end of Pennsylvania Avenue and talk to the President of the United States eye to eye and man to man in the plain blunt language of 'yes' and 'no.'"116

Meanwhile, the era of committee hegemony and party control of the House continued. The record of party high-handedness which the Republicans accumulated throughout the 1920s was matched by the Democrats once they found their hands on the levers of power in 1931. During the 1920s, as the minority party, they had been controlled by a small group of southerners, some of whom had entered the chamber during the first decade of the century. Dominated by this group, which owed its power to its seniority, the now ascendent Democrats were largely able to resist demands for reform on the part of the newly elected freshman class members who, naturally enough, sought to reorganize the arrangements of power within the party to reflect their own numbers. By 1933, the nearly two-thirds of House Democrats who were from states outside the South had succeeded in getting the party to set up a Steering Committee to oversee its affairs. But the success of this innovation was limited: during the 73rd Congress, as we have seen, the Rules Committee became the implement of choice of the House Democratic leaders who used this device to bypass the Steering Committee. This was the Congress which

was called into special session by President Roosevelt on March 9, 1933 and asked to pass a series of emergency measures almost sight unseen. Ten of the measures were brought to the House floor under special "closed" rules--drafted by the Rules Committee and adopted by majority vote--that barred all except committee amendments, waived points of order, and sharply limited debate.¹¹⁷

The colloquial term for such procedures is "gag rules" and the question can at least be raised whether it was proper for the leadership to acquiesce in stopping the mouths of Congress that it might enact such measures as the Emergency Banking Act, the Economy Act, the Emergency Relief Act, the First Agricultural Adjustment Act, the Tennessee Valley Authority Act, and the National Industrial Recovery Act. When the Rules Committee, in 1934, brought in a rule that would bar, for the duration of the session, any amendment to any appropriation bill which conflicted with Roosevelt's economic program enacted during the previous year, Minority Leader Bertrand Snell spoke up

. . . saying that he had never been opposed to special rules so long as they were "fairly fair," [he] called this "the most vicious, the most far-reaching special rule" ever proposed. No majority, he said, had "ever dared bring in a rule that not only hog-tied and prohibited the members from expressing themselves on the legislation in hand, but even extended throughout the entire session of Congress."¹¹⁸

Snell was joined by all of the Republicans, 84 Democrats, and five Farmer-Labor members in voting against the rule, which passed nonetheless by a bare margin, 197 to 192.

The point is not to pass judgment on the historical or social merits of Roosevelt's programs. What counts here is that they originated in the executive branch, rather than in the legislature, and

that their passage was secured largely at the expense of the substantive and wide-ranging debates among the membership which should have preceded such crucial and important changes in the relations between the state and society in the United States. Given what we now know about Congressional tendencies toward paralysis in times of executive branch weakness, perhaps this was the only way that the institutions of government were capable of organizing themselves for action in a time of acute national crisis, but we are going to take the view that this form of action was contrary to that which the designers of the Constitution had intended. Roosevelt himself was no doubt aware of this, but seemed willing to waive the Constitution in order to help the country solve its problems. His attitude toward Congress was reflected in his opening address to the Seventy-third Congress:

I come before you . . . not to make request for special or detailed legislation; I come rather to counsel with you who, like myself, have been selected to carry out a mandate of the whole people, in order that without partisanship you and I may cooperate to continue the restoration of our national well-being and, equally important, to build on the ruins of the past a new structure designed better to meet the present problems of modern civilization. . . . Out of these friendly contacts we are, fortunately, building a strong and permanent tie between the legislative and executive branches of the government. The letter of the Constitution wisely declared a separation, but the impulse of a common purpose declares a union.¹¹⁹ [Emphasis added.]

Roosevelt succeeded in achieving this "union," which ultimately resulted in a permanent change in the minds of most people about the proper structure of interbranch relations. On the level of daily political action, the new scheme worked flawlessly only until FDR sent his famous scheme to pack the Supreme Court over to Capitol Hill for

approval. In the resulting furor, the Republicans and conservative Democrats decided to band together and to work in tandem. Historians call the emergent combination the "Conservative Coalition" and this union was so successful that it outlasted the other and persisted for nearly thirty years.¹²⁰ By wielding effective power on the Rules Committee, the coalition was able to defy the Democratic leadership by acting as an effective check on its ambitions. It did so by refusing to clear labor legislation and other Administration programs. While the views of members of the coalition on social and economic issues were in conflict with those of most Democrats in the House, it is important to note that they reflected the legislative preferences of a bipartisan majority. From 1939 to 1956, the coalition won almost all of the roll calls on which Southern Democrats and Republicans opposed Northern Democrats. The success rate during this period falls below eight percent only once.¹²¹ The problem as usual was that this bipartisan majority did not show itself capable of initiating policies. If Roosevelt's "union" between the executive and Congress meant, in terms of its daily operations, executive initiative and Congressional ratification, then the conservative coalition inaugurated a period of Congressional strength solely in the area of its capacity to refuse, while providing little in the way of positive accomplishment. This system, such as it was, seemed to replicate inside the Congress what the Congress was now being reduced to with respect to the rest of the government: its strength, and the strength of its members, lay in its capacity to obstruct rather than to create.

Finding little to create, then, it provided obstruction in plenitude and succeeded in blocking most of the proposals which Roosevelt and later Truman were to make in the domestic areas of civil rights, labor law and social welfare policy.¹²²

By 1945, irritation with this unhappy record had begun to mount, and the end of the war found many in Congress and the political science profession in a mood for reform. A report by the American Political Science Association summed up the problem as it appeared to many who were in positions to know:

Congress must modernize its machinery and methods to fit modern conditions if it is to keep pace with a greatly enlarged and active executive branch. This is a better approach than that which seeks to meet the problem by reducing and hamstringing the executive. A strong and more representative legislature, in closer touch with and better informed about the administration is the antidote to bureaucracy.¹²³

Notice what is being warned against and what is being advocated here. First, the warning is not directed against the presidency per se, but the "bureaucracy" which humbly acts in his name. It is a novel complaint in the history of our institutions, for we do not hear much of it before 1945. It is symptomatic of sea changes not only in the conduct of the U. S. government and the nature of its institutions, but also in the assumptions tacitly held by educated mass opinion about the proper character of those institutions. Roosevelt had done more than simply borrow the cadences of Lincoln (i.e., "to build on the ruins of the past a new structure . . ."), he had successfully initiated what amounts to the third American Revolution.

There are really two kinds of criticism which the American Political Science Association of the day might have leveled at the Congress: the Association could have looked either at the degree to which it fulfilled its formal institutional role, or it could have focused on the content of the legislation which Congress passed or obstructed. We might borrow a heuristic device from students of literature at this moment, and say that the Association could have focused either on institutional form or legislative content. Here we have a critique of institutional form based on the failure of the legislature to pass particular measures then being originated by the executive. The Congressional legislative process, then, is being evaluated solely in terms of political judgments about its failure to act on executive proposals. This kind of critique of institutional form isn't all that one might expect, however: the institution of Congress is not seen as having grown weak with respect to executive branch power. Instead, it is held to be out of step with it. What is assumed is that the initiative ought to lie on the executive side; what is politically demanded is that Congress modify itself to serve the necessities embedded in that assumption. To this student, both the assumption and its consequences follow from a misplaced emphasis upon the liberal agenda of the late 1940s and the successful tactics developed by the Conservative Coalition in expanding its own powers to say "no. " But the possible long-range consequences of fundamental change in our institutional arrangements, both in the actions of the Coalition and in the proposals in favor of Congressional adaptation

launched against it, go begging here. What was important was not the fate of any particular agenda. What was important was that the Conservative Coalition made it impossible for the majority party to enact its program of government, and this meant that it was making it extremely difficult for the Congress to enact much of anything. Into the vacuum stepped the executive branch, as any historian might have expected. Meanwhile, Congressional positive action had now to be conducted along the lines of a coalition politics--shifting alliances of ad hoc groups were now to be assembled as a prior condition to the passage of bills. This, in turn, made it even more difficult for the majority to govern, and the House began to look dilatory and balky to the outside world. And so it became possible to begin the custom of running "against" the Congress, which not only marked an important step in its institutional decline, but also served to provide ample ammunition to those who would strengthen the Presidency at its expense.

Be these things as they may, the American Political Science Association offered the studied advice that Congress adjust itself to meet the changing times. Advice of this sort is rampant throughout the literature of the period and can be seen to characterize one of the three basic arguments which Davidson and Oleszek noted are perennially advanced in the cause of Congressional reform.¹²⁴ What such proposals fail to note is that Congress, having "adapted" its initiative over domestic policy by thrusting it into the hands of the executive, first in 1921 and then in 1932, is now urged to make

further adaptations of the same order. We note that if Congress is to "keep pace," it cannot be Congress which sets the pace. Agency, in the minds of most commentators had irrevocably passed to the executive, and the literature is replete with comments that Congress accept the situation and adapt.¹²⁵

As the members of Congress themselves took steps toward internal reforms, the language of adaptation began to become more concrete, and the long and sustained campaign to "modernize" the national legislature at last began to focus on the particular problem of its "efficiency."¹²⁶ For those who sought reforms, adaptation for purposes of efficiency translated into the necessity for streamlining and restructuring the committee system to weaken its powers of obstruction without damaging its effectiveness in drafting detailed legislation. But note that the intentions of the members differed from the intentions of the scholars: members of Congress didn't talk much about adapting to the presidency. What they wanted was to reassert the power of their institution.

Of all the external stimuli to reorganization, . . . the growth of executive power is undoubtedly the strongest. By 1946 this phenomenon--triggered by the great depression and augmented by the second world war--led reformers to view a reorganized Congress as a way to redress the imbalance of power that had developed between the branches.¹²⁷

But it was the committees, after all, which developed public policies, decided which proposals were important and which not, presented alternatives to executive branch proposals, drafted complex legislation and had oversight responsibilities. Davidson and Oleszek emphasize how

important the members of Congress thought the committee system was to the overall strength of the legislature:

Like members of the Select Committee on Committees of the 93d Congress, the reformers of 1946 believed that strengthening the committee system strengthened Congress itself. This was necessary because Congressmen were concerned about the growing power of the executive branch, and recognized the imperative of reestablishing Congress' role as a co-equal branch of government.¹²⁸

The product of this reform movement was the Legislative Reorganization Act of 1946, specifically designed "to provide for increased efficiency in the legislative branch of the government."¹²⁹ Modernization of the standing committee system was its first aim. It was widely held that a crucial step in buttressing the committee system lay in straightening out the tangled snarls of conflicting and overlapping jurisdiction which frequently set the various committees at odds with one another and added yet another set of formal barriers to the attainment of either consensus or policy. Hence the Act moved to make the committee structure more formally elegant by reducing the number of standing committees. It also attempted to strengthen Congressional control over the budget, reduce the workload of Congress--which was becoming overwhelming--and improve the quality of staff assistance to individual representatives and standing committees.¹³⁰ Hence, altogether, the number of standing committees was reduced and their procedures made more formal, public and regular.¹³¹ At the same time,

The entire legislative domain, as it was then understood, was set forth and divided into categories, each assigned to a separate standing committee. In the process, obsolete com-

mittees were eliminated or consolidated, responsibility for programs was focused, and many potential jurisdictional conflicts were avoided.¹³²

What went absolutely unanticipated at the time were the consequences that would follow the provision for reduction in the number of committees. The jurisdictions of the eliminated committees were apportioned among the remaining and newly-created ones, but primary responsibility for it was delegated to permanent subcommittees. These bodies thereby took on a new permanence and influence, for they began gradually to emerge as independent centers of House power, and, as the years went by, flourished in the darker and less inspected corners of the House.

Other measures taken in the 1946 Act included steps to strengthen the Congressional power of the purse. The Act directed the House Ways and Means, the Senate Finance, and the Appropriations Committees of both houses to prepare a legislative budget each year including estimates of total receipts and expenditures. The Budget Committee's report was to be accompanied by a concurrent resolution for adopting the budget and fixing the amount to be appropriated. At the same time, Congress attempted to lighten its workload by prohibiting the introduction of four categories of private bills and provided limited professional staff support to each standing committee--an innovation which would turn out to have truly horrendous consequences a mere 30 years later. Finally, the Act required that, for the first time, lobbyists register with and report their expenditures to the Clerk of the House.

Regarded as a breakthrough at the time of passage, the Act ultimately did little to realign the areas of jurisdiction either within Congress or in its relations with the executive branch. The reduction of the number of committees proved to be mainly cosmetic. The provisions for the legislative budget turned out to be "unworkable" and the Act's provision for a Joint Committee on the budget which would set an appropriations ceiling by February 15th of each year was implemented twice and then abandoned. The Regulation of Lobbying did not go far enough, and the reduction of the number of committees turned out to be only temporary: new committees were almost immediately instituted and subcommittee proliferation assumed acute proportions.¹³³ Finally, by reducing the number of standing committees and hardening their jurisdictional lines, the Act tended to strengthen the seniority system, reinforce committee autonomy, and inhibit the ability of the House to grapple with public problems of a national scope as time and political change invariably brought them to the fore.¹³⁴ Samuel Huntington summed up the act as follows:

The net effect of the Reorganization Act was thus to further the dispersion of power, to strengthen and to institutionalize committee authority and to circumscribe still more the influence of the central leadership.¹³⁵

In general, then, the Legislative Reorganization Act of 1946 should be studied for what it can reveal about the problems which faced the Congress at that time, and which it was to confront all over again in 1974.¹³⁶ But it will provide the historian very few examples of constructive acts successfully undertaken to solve them. In my

estimation, its most important long-range consequences lay in the dramatic increase in the number of joint committees and subcommittees which followed in its wake and the proliferation of supporting staff everywhere upon the Hill. These developments strengthened the hand of the centrifugal forces within the body and, as Huntington has indicated, weakened the central authorities of Congress. Decline in the powers of Congress continued.

The era extending from 1946 to 1965 was characterized by a Congress dominated almost continuously by its committee chairmen and the conservative coalition--a Congress of which neither its professional students nor the general citizenry expected very much. While time quickly outran the reforms of 1946, events seldom intervened to alter the increasingly common practice and widespread viewpoint that the primary responsibility of Congress was to implement the President's programs--or obstruct them if it were able to so choose. Some crucial point with respect to the problem of Congressional initiatives over policy was passed about halfway through Eisenhower's first term. The shift did not escape Clinton Rossiter, and Galloway cites his The American Presidency at some length:

The point was reached and passed in a press conference on January 13, 1954. During the first session of the Eighty-third Congress Mr. Eisenhower had submitted few proposals to Congress and had exerted little continuous pressure in their behalf. Observers were wondering aloud whether he was aware of the change that had come over the Presidency or of Congress' need for guidance. But as the second session approached the President began to gather steam, and within a few days of the opening of Congress in 1954 he was sending over detailed messages outlining his wishes on farm policy, social security, foreign policy, labor, and finance. And now

at the press conference this exchange took place:

Q. Mr. President, could you say what percentage of your recommended proposals you would expect to be passed at this session?

A. The President said, Look, he wanted to make this clear. He was not making recommendations to pass the time away or to look good. . . . He was going to work for their enactment. Make no mistake about that. That was exactly what he was in the White House for and what he intended to do.

Twenty-five years ago this remark, especially as and to whom delivered, would have brought most members of Congress spluttering to their feet and set the President's few remaining friends to shaking their disbelieving heads. Even as late as ten years ago it would have been considered a gratuitous insult by the die-hards and a show of bad taste by the moderates in Congress. In 1954 it passed unchallenged and even unnoticed, except by those whose reaction was, "Well, it's about time."¹³⁷

Meanwhile, for his part, Lyndon Johnson, arguably the most effective majority leader the Senate has ever seen, took it upon himself to support his President against the political forces of the Taft wing of the Republican Party and the Conservative Southern wing of his own.¹³⁸ Though never one to blindly support any program that did not or could not be made to coincide with his interests, Johnson's basic strategy of cooperation with Eisenhower reflected his understanding that limited but real goals could be achieved by Democrats even though they did not control the presidency. While this action resulted in solid legislative accomplishments, it further institutionalized executive initiative over broad policy. Few students of Congress, however, whether seated members or holders of academic credentials, seemed to question the emerging arrangements, and Johnson's legislative successes were widely applauded.

Again, it is important not to underestimate the significance

of these developments. First, the relationship between the executive branch and the Congress had changed fundamentally in less than a generation; second, both the participants on the Hill and the observers in the academy not only accepted these changes, but strove throughout the late 1950s and 1960s to put their shoulders behind the wheel of this historical development and edge it along as best they could. Third, when criticisms of Congress were leveled, they were usually couched in terms of its inefficiency in carrying out executive branch proposals, rather than questioning the alteration in interbranch powers. As for those times during which the Congress was undeniably productive and performed its job well, Huntington has made it clear that we should not confuse the personal power of individuals with long term evolution in the functions and powers of institutions:

At times individual central leaders have built up impressive networks of personal influence. These, however, have been individual, not institutional, phenomena. The ascendancy of Rayburn and Johnson during the 1950s, for instance, tended to obscure the difference between personal influence and institutional authority. With the departure of the Texas coalition their personal networks collapsed. "Rayburn's personal power and prestige," observed Representative Richard Bolling, "made the institution appear to work. When Rayburn died, the thing just fell apart." Similarly, Johnson's effectiveness as Senate leader, in the words of one of his assistants, was "overwhelmingly a matter of personal influence. . . ." [After Johnson's successor had taken power] . . . The majority leadership role was uninstitutionalized and the kindly, gentlemanly, easygoing qualities which Mansfield had had as Senator from Montana were not changed. . . . The power of the President has been institutionalized; the powers of the congressional committees and their chairmen have been institutionalized; but the power of the central leaders of Congress remains personal, ad hoc and transitory.¹³⁹

For Huntington, then, the powers of Congress itself depend upon

"institutionalization" of power in its central leadership.

One meaning of "institutionalization" is that the practice so designated takes on an aura of permanence in the minds of those who have occasion to be aware of it; one consequence of institutionalization is that it gives rise to practices and arrangements as apparently permanent as their causes. And so, by the mid 1960s, Robert Dahl was able to write:

If Congress were to do no more than to consider the principle measures submitted to it by the Chief Executive, it would have plenty to do.¹⁴⁰

From about the mid-60s onward, pronunciamenti generally critical of Congress began to flow from the pens of the academy, which proceeded to discuss current problems as though Congressional attempts to strengthen its hand against the presidency had never taken place. Most of the criticisms will be familiar, and so should be also the absence of any Whig strains in the lamentations: increased Congressional strength was to be sought not in order to redress any imbalance of power between the branches, but in order to increase its efficiency of operations. Samuel Huntington, again, praised the effectiveness of Congress in providing for specialization but criticized it, as we have seen, for having "failed to combine increasing specialization of function with increasing centralization of authority."¹⁴¹ Holding that the basic function of representation in the twentieth century had passed from the Congress to the administration, he went on to echo the sentiments which the profession had expressed in 1945, and noted that Congress was facing an "adaption

crisis" which involved three major aspects of its existence as an institution: its affiliations, its structure and its functions. It had insulated itself from the new social forces of the twentieth century, dispersed its internal power into hopeless chaos, and reduced its role as creator of legislation to one of delay and amendment.

A mere six years later, in 1971, the Committee for Economic Development proceeded to unburden itself, seeing Congressional problems primarily in managerial terms:

In this perspective, Congress has two primary responsibilities. One is to reconcile or compromise divergent interests so that the informed will of the people may find expression in legislation. The other is to review program execution and agency performance in order to check tendencies toward improper exercise of executive authority or perpetuation of obsolete programs. Both functions are indispensable, but Congress as it now operates is unable to fulfill either satisfactorily.¹⁴²

The Committee went on to recommend that Congress absolve itself of its sins by (1) streamlining [sic] its committee structure because adequate coordination between its decentralized power centers was lacking, and (2) bringing its methods, approaches and structures into conformity with the dynamics of a changed polity.

What all of this was building up to was yet another widespread movement for reform. While it would take an extensive review of the professional literature from, say, 1950 to 1970 to document this thoroughly, there is a real difference in tone between the complacency of Dahl's 1965 view, and that of the Committee for Economic Development written only six years later--the same year, in fact, in which Polsby wrote his essay "Strengthening Congress."¹⁴³ This did

much to sum up the developing viewpoint that Congress was in trouble, and that its troubles were largely organizational. Taken together, the articles by the Committee for Economic Development and Polsby express by implication that for many observers there existed what we can only call a causal relation between the internal organizational problems of the Congress and its external, institutional weaknesses. Polsby advised that we "consider the ways in which the House and Senate organize to do business as a means of gaining insight into how a legislature can cope with the complex demands of a large heterogeneous society, including the rest of a big government."¹⁴⁴ He went on to make three specific suggestions which would incrementally improve the capacity of the Congress to function effectively. He ended by raising the fundamental difficulty, saying that while incremental reforms may not appear to accomplish a great deal,

. . . they give recognition to the continuous needs for institutions to provide means by which they can respond to outside demands, yet at the same time retain the capacity to exercise independent choice . . . and seek to enhance the participation of these institutions in the processes of policy-making by improving their capabilities rather than destroying their power.¹⁴⁵

Change was not, for once, to remain incremental. As the next wave of reforms coalesced into action, it became clear that the members involved conceived their task less in terms of augmenting the powers of the institution of Congress as a whole than with dismantling the hierarchical structures of seniority and the committee system which had successfully stymied their particular efforts to bring about legal and social reforms. Of course, strengthening the Congress

against the Presidency was also crucial: their desires for increased democracy and personal power within the body were greatly whetted by highly misplaced penchants for secrecy and deceit on the part of two successive administrations, each of which strove to conduct the war in Southeast Asia with a minimum of Congressional hindrance. A new generation of younger and more liberal representatives and senators agitated to expel the conservative blockage, upheld by Congressional hierarchy, that threatened the institution with ruin. What they did not anticipate, however, was the anarchistic incontinence that would follow.

REFERENCES

¹As every schoolboy knows, the Congress of the United States is a bicameral legislature consisting of an upper and a lower House. For the purposes of the dissertation, however, I am going to ignore the U.S. Senate, because it is the House of Representatives, as originally constituted, which most fully embodies the popular element in the U.S. government. But this choice raises the question whether a bicameral U.S. Congress truly fits the classical models of a "pure" public space that Aristotle and Arendt put forth. It requires one to say that if the bicameral legislature fits within Republican theory, it does so in a special sense, and that sense must be explained.

The polity of which Aristotle wrote was governed by an assembly comprised of members of all classes or ranks of citizen. From these, the members of the executive and judiciary were directly drawn. A political compromise between conflicting classes was therefore established through the presence of those classes in the assembly and the absence of class origins as a criterion in the selection of officers of the state. Quick turnover of officeholders prevented the institutionalization of power by any faction that might temporarily hold it.

Now, none of the authorities upon whom I have drawn in making this study, i.e., Pocock, Wood, Wolin, Walker, Pitkin, Pole, etc., has troubled to doubt the authenticity of the label "Republican" as it might be attached to the Florentine polity of 1494, the English Constitution of 1688, or the various American constitutions of 1776 or 1787. The constant element in the tradition as it was worked out in historical practice is the "mixture" of class influences and interests in a state structure such that none comes to dominate the others. The discontinuous element, however, between the Aristotelian polity of Book IV and the later Republican state structures is that the polity is "mixed" in the assembly itself in the first case, and throughout the various branches or structures of the state in the subsequent cases.

But this development has a consequence for the extent to which one can claim that it is in the assembly alone that that synthesis of diverse political points of view takes place, which is the essential ingredient in what Wolin calls a political judgment. If the generality of society is to determine the common interest and hence move forward, that generality must do so on the basis of a common self-assessment, jointly arrived at. How else might the interests of a national constituency, as opposed to special interests, be served? But if power is allocated to portions of society which do not assemble, but exercise their prerogatives in distinct places, the assembly cannot be the place of synthesis. What this makes clear is that there are two conflicting themes present in Republican theory: that class interests can be mitigated through a distribution of power; and that the common interest emerges as a result of synthetic apprehensions of policy goals by assemblies. The tension between the

two resembles that which distinguishes the theories of virtual and actual representation explored in the preceeding chapter above. While no ultimate resolution between them may be possible, it is clear that the consensus among professional political scientists, i.e., that Congress fails to serve its national constituency adequately, is implicitly based upon the second, synthetic "Assembly" theme.

In choosing to emphasize the House, then, I am seeking to ground my own critique of current practices in the "pure" public space of Aristotle. At the same time, however, it should be clear from what follows that a clash of interests usually, but a pure Republican synthesis almost never, takes place there. That the founders never really intended the House to serve as the exclusive arena of a possible sunthesis can be seen in the fact of bicameralism itself: both houses were to concur on legislative matters, and the upper chamber was to represent the interests of property against the overweening claims of the numbers of the lower classes. While this was undoubtedly a "republican" solution, squarely in the Atlantic tradition described by Pocock, it is clear that neither the Founders, nor many professional students of Congress, nor myself for that matter, have completely come to grips with the consequences of the two disjoint elements in republican theories of legislative activity.

²Roger H. Davidson and Walter J. Oleszek, Congress Against Itself (Bloomington: Indiana University Press, 1977, 1979), p. 3.

³Burdett A. Loomis, "Congressional Caucuses and the Politics of Representation," in Lawrence Dodd and Bruce Oppenheimer (eds.), Congress Reconsidered, 2nd ed. (Washington, D.C.: Congressional Quarterly Press, 1981), p. 206.

⁴Woodrow Wilson, Congressional Government (Gloucester, Mass.: Peter Smith, 1973), p. 57.

⁵Nelson W. Polsby, "Strengthening Congress in National Policymaking," in Congressional Behavior, Nelson Polsby (ed.) (New York: Random House, 1971), pp. 3-13.

⁶David R. Mayhew, Congress: The Electoral Connection (New Haven: Yale University Press, 1974).

⁷Davidson and Oleszek, Congress Against Itself.

⁸Lawrence C. Dodd and Richard L. Schott, Congress and the Administrative State (New York: John Wiley & Sons, 1979). Dodd and Schott, of course, attempt the overview, but they are students of Public Administration where the spell of the diagrammatic apprehension of chaos is still strong. Their critique, useful though it is, proceeds entirely upon the political assumption that the essential requirement of the Congress is that it represent. Hence, both the par-

tiality and what seems to this student, the incisive accuracy of their work.

⁹Michael J. Malbin, Unelected Representatives: Congressional Staff and the Future of Representative Government (New York: Basic Books, 1980).

¹⁰J. McIver Weatherford, Tribes on the Hill (New York: Rawson, Wade, 1981).

¹¹Dodd and Oppenheimer, Congress Reconsidered.

¹²Thomas E. Mann and Norman J. Ornstein, eds., The New Congress (Washington, D.C.: American Enterprise Institute for Public Policy Research, 1981).

¹³Nelson W. Polsby, "The Institutionalization of the U.S. House of Representatives," American Political Science Review 62:1 (March 1969), p. 166.

¹⁴*Ibid.*, pp. 144-145.

¹⁵One index out of the countless ones which give evidence of the growth in the size and complexity of government may be found in a perusal of the House procedures. House procedures are governed by precedent. Up to 1935, the precedents filled nine heavy volumes. Since then, so many unpublished additions have been made that only the parliamentarian's office understands them all. If you are dying of curiosity about this matter, see: Deschler's Procedure: A Summary of the Modern Precedents and Practices of the U.S. House of Representatives, 86 Congress - 93 Congress (Washington, D.C.: Government Printing Office, 1974).

¹⁶Joseph Cooper and David W. Brady, "Toward a Diachronic Analysis of Congress," American Political Science Review 75:4 (December 1981), pp. 988-1006. This is an appallingly written article, filled with the linguistic kudzu that passes for thought among too many social scientists these days. It has an excellent bibliography.

¹⁷A simple and convenient contemporary general history of Congress is: Congressional Quarterly, Inc., Origins and Development of Congress (Washington, D.C.: Congressional Quarterly, Inc., 1976). This is a textbook, not a monograph. The only complete history of the U.S. House of Representatives--and hence the standard account for scholars--is George B. Galloway, History of the House of Representatives (revised by Sidney Wise) (New York: Crowell, 1976).

¹⁸Davidson and Oleszek, p. 217. "In large part, the history of the House of Representatives has been a struggle to mold a coherent

policymaking instrument out of a large and disparate collectivity. It has been, one might say, a struggle of the general vs. the particular, in which the particular seems the more powerful force." Quoted by Burdette Loomis, "Congressional Caucuses and the Politics of Representation," Congress Reconsidered, Dodd and Oppenheimer (eds.), p. 217.

¹⁹See: Galloway, History of the House, p. 301. "Down through American history, leadership has oscillated between the legislature and the executive. We have had alternating periods of presidential government and of congressional government as the pendulum of power has swung back and forth."

²⁰Galloway, p. 9. See also: J. R. Pole, p. 517.

²¹Congressional Quarterly, p. 9.

²²Ibid., p. 83.

²³Galloway, p. 12.

²⁴Ibid., p. 11.

²⁵Congressional Quarterly, pp. 83-104.

²⁶I think that the problem of legislative detail overshadows that of the problem of building a legislative consensus in the minds of most contemporary students of Congress who have touched upon this area. Roger Davidson, for example, also attributes the original institution of committees to a policy agenda demanding "decision making on detailed questions." See: Roger H. Davidson, "Subcommittee Government: New Channels for Policymaking," in Mann and Ornstein, p. 102.

²⁷James Sterling Young, The Washington Community, 1800-1828 (New York: Columbia Univ. Press, 1966), p. 94. Why was this Britisher so astonished? Because he knew that not only can you not have a pure democracy within the polity, you cannot even have it within the Parliament or governing group itself. Over a long period of years, the British had worked out a system of Cabinet government which was formally collective and collegial, and by which the crucial daily decisions were made. It was the Prime Minister who, along with the center group of the majority party, set the agenda and determined the daily course of administrative policy, and made the primary decisions about substantive policies. Once this small group had reached agreement, it then went before the general body and presented it with a program for ratification or rejection. Here, then, is one solution to the problem of consensus: the governing party is seen as capable of embodying a consensus of views on matters of policy, and structured so

that it is functionally and organizationally capable of transmuting those views into legislative acts. There were, of course, frequent pitched battles waged in Parliament, and even within the inner group of the cabinet itself, and it was always possible that the ruling P.M. and his group would lose some of their allies and therefore their Parliamentary majority. Such losses, of course, are followed by new elections, and under the British system, a paralyzed government or legislature would be the exception rather than the rule. Nonetheless, what you did not find in the Parliament as it existed during the reign of George III and afterwards was the kinds of assembly nit-picking of the sort that will be described below. Therefore we see that Parliament operated on lines fundamentally similar to those we have already seen in the Boule and the Signoria: the oligarchs, elders, Grand Signori, cabinet or whatever drew up the agenda, outlined its form and substance, and went before the assembly to obtain ratification. Matters of detail were generally eschewed; matters of broad policy debated heatedly. The ruling group could always lose--though the consequences of such mischances differed. In Greece, death or exile could always await the failed minister; in England, he could usually anticipate a seat on a back bench somewhere. The American system has always been predicated on different lines.

²⁸Gordon S. Wood, pp. 483-519, 606-615.

²⁹Young, Washington Community, p. 95.

³⁰*Ibid.*, p. 97.

³¹*Ibid.*, p. 91.

³²*Ibid.*, pp. 113-127. The account could get a little tricky here. Apparently, the decade of the 1790s saw the gradual emergence of what we can only call "parties" in the Congress. After 1803, this development went into remission. While it is important to note that members of Congress began manifesting the tendency to coalesce into parties almost from the very outset, the problem of the internal organization of Congress took a very different turn during Jefferson's administration and this was crucial to the forms of institutionalization that followed. On the party question, see: John F. Hoadley, "The Emergence of Political Parties in Congress, 1789-1803," APSR 74:3 (September 1980), pp. 757-779.

³³*Ibid.*, p. 129. And recall Tom Paine's words in the Rights of Man, still perhaps echoing in their ears: ". . . above all he [the citizen of a representative democracy] does not adopt the slavish custom of following what in other governments are called LEADERS."

³⁴*Ibid.*, p. 133.

³⁵Ibid., p. 151. Hoadley notes that Young's thesis has recently come under fire. He says, "A comparison of boardinghouse residence. . . with the location of members in the configurations for the Philadelphia and Washington years (to 1803) fails to reveal any pattern supporting Young's thesis for this period." See Hoadley, p. 777, n. 15. Among the literature cited by Hoadley, I find one piece of research covering the period prior to 1803, and another covering that from 1821 to 1842. In the absence of clear evidence negating the thesis from 1803 to 1820, I will stick with it, but careful scholarship requires that the debate on this point be watched. I think that Young's basic claim, that the problem of consensus--as opposed to the problem of detail--is valid nonetheless, and crucial to understanding Congressional politics prior to the election of 1828.

³⁶Ibid., pp. 182-186.

³⁷Ibid., p. 140.

³⁸Gordon S. Wood, pp. 606ff.

³⁹Polsby, 1969, pp. 144-168.

⁴⁰See Federalist No. 52, "The Scheme of Representation, as a Substitute for a Meeting of the Citizens in Person. . ."

⁴¹Ralph V. Harlow, The History of Legislative Methods Before 1825 (New Haven: Yale University Press, 1917).

⁴²Polsby, 1969, p. 164.

⁴³Ibid., p. 165.

⁴⁴The vocabulary of organization is basic to Polsby's point of view. Among other places, see 1969, pp. 148-149, 152, 155.

⁴⁵Ibid., p. 145. I have paraphrased his discussion pretty closely here.

⁴⁶Ibid., p. 153.

⁴⁷Ibid., p. 154.

⁴⁸Harlow, pp. 120-150. Cited in Polsby, 1969. See also Galloway's discussion of these events, pp. 304-305.

⁴⁹Galloway, p. 20.

⁵⁰At this point we could do well to dispense momentarily with the niceties of "institutionalization" despite its efficacy as a

heuristic device for displaying the complex arrangements which emerged in the early House. What is really at stake here is power: who is going to have control over the chamber and determine what it does? The inactive and anarchistic House invited takeover, and begged for it. The Chamber existed as a repository of power, and if it would not assert this for itself, someone could--and did--seize upon the institution as an implement for his own designs. Power vacuums do not last.

⁵¹Polsby, 1969, p. 154. There is some confusion in the accounts here. Either Congress organized to defend its turf, or it was led about by the nose by Hamilton in the executive, or it defended itself because it was being led around--in which case the body was divided between a party eager to be so led and another which stoutly resisted the halter. Perhaps the confusion lies in the disparity among the accounts. The earlier ones focus on the relative weakness of Congress, and the later are more concerned with its internal organization *per se*. The whole question can only be settled when someone with the courage and money goes into the archives explicitly to settle this question. Again and again, it appears that Polsby's offhand remark is correct, that "A wholly satisfactory account of the historical development of the House committee system does not exist." Ibid., p. 153.

⁵²Harlow, pp. 157-158. Cited in Polsby, 1969, p. 155.

⁵³Polsby, Ibid.

⁵⁴Galloway, pp. 129-130. Quincy chose to leave Congress in 1813, returning to the Massachusetts Senate and eventually becoming President of Harvard University.

⁵⁵Polsby, 1969, p. 155.

⁵⁶Young, p. 181.

⁵⁷Ibid.

⁵⁸Polsby, 1969, p. 155.

⁵⁹Leonard D. White, The Jeffersonians, 1951, p. 48. Cited in Galloway, p. 306.

⁶⁰Ibid.

⁶¹Congressional Quarterly, p. 93.

⁶²Galloway, p. 309.

⁶³Samuel Eliot Morison, The Oxford History of the United States 1783-1917, Vol. 2 (London: Oxford University Press, 1927), p. 333. The Tenure of Office Act of March 1867, requiring the advice and consent of the Senate for all removals from office was of doubtful constitutionality, but set the stage for Johnson's impeachment. See Morison, p. 341ff. for a succinct account of the old story. Morison is very much a partisan of the reconstruction policies of Johnson and Grant and opposed to the Radicals in Congress. For a more balanced and recently researched account of reconstruction politics and policies, see William S. McFeely, Grant: A Biography (New York: W. W. Norton, 1981), pp. 356-364 et passim.

⁶⁴Galloway, p. 314.

⁶⁵Congressional Quarterly, p. 110.

⁶⁶Roger H. Davidson, "Subcommittee Government: New Channels for Policy Making," in Mann and Ornstein (eds.), The New Congress, pp. 102-103.

⁶⁷Select Committee on Committees, U.S. House of Representatives, Committee Reform Amendments of 1974, 93d Congress, 2d Session (Washington D.C.: U.S. Government Printing Office, 1974), Rept. 93-916, p. 9; Congressional Quarterly, pp. 3-4; Davidson and Oleszek (eds.), p. xiii; Dodd and Schott, p. 11; Mayhew, p. 18; Robert Peabody and Nelson W. Polsby (eds.), New Perspectives on the House of Representatives (New York: Rand McNally, 1977), p. 27; Nelson W. Polsby, Congress and the Presidency (Englewood Cliffs: Prentice-Hall, 1971), p. 1; David J. Vogler, The Politics of Congress (Boston: Allyn and Bacon, 1974), p. 8; Weatherford, p. 19.

⁶⁸See Thomas E. Mann, "Elections and Change in Congress," in Mann and Ornstein (eds.), The New Congress, p. 52, for a statement of the obvious: "The fact that the President and Congress have separate electoral bases, which virtually ensures a degree of institutional tension not seen in parliamentary systems, is rooted in the Constitution, not in contemporary American history."

⁶⁹Wilson, p. 49.

⁷⁰Ibid., p. 42.

⁷¹Ibid., p. 55.

⁷²Ibid., p. 28.

⁷³Ibid., p. 49.

⁷⁴Ibid., p. 56.

⁷⁵Ibid., p. 59.

⁷⁶Ibid., p. 62.

⁷⁷Ibid., p. 49.

⁷⁸Ibid., p. 59.

⁷⁹Ibid., p. 66.

⁸⁰Ibid., p. 62.

⁸¹Ibid., p. 65.

⁸²As I read Wilson, this issue is at the heart of his book.
See pp. 68-82.

⁸³See for example, Ibid., pp. 62, 65, 69, 71, 116, 131, 148.

⁸⁴Ibid., p. 98.

⁸⁵Ibid., p. 71.

⁸⁶Ibid., p. 72.

⁸⁷Ibid., p. 40. Perhaps it is not unfair to say that Wilson pointed out a pattern of state spending which distinguished modern government from earlier forms. We do not find state consumption of capital as formerly, but state redistribution of capital from one set of private ends to other sets of private ends. Hence the public realm becomes more and more corrupt and resentment of it increases for its activities require no visible benefits upon the common.

⁸⁸Samuel Beer recently took a view of these matters exactly contrary to Wilson's. Beer sees the problem entirely in terms of the need to create a national union out of a heterogeneity of local interests. Canals, for example, may benefit the several states more than any single one of them. Hence, the national government ought to take responsibility for the construction of such projects. Beer contrasts the governmental activism first of Hamilton and later of Webster with such nineteenth century opponents as Calhoun and Hayne. The issue was the creation of a national union in which all citizens, regardless of local interest could believe and support. See: Samuel Beer, "The Idea of the Nation," New Republic 187:3 (July 19 and 26, 1982), pp. 23-30.

⁸⁹Morris Fiorina, Congress: Keystone of the Washington Establishment (New Haven: Yale University Press, 1977), p. 62.

⁹⁰Galloway, p. 313.

⁹¹Wilfred E. Binckley, President and Congress, 1947, p. 53.
Cited in Galloway, Ibid.

⁹²Galloway, p. 314.

⁹³Ibid., pp. 311-314.

⁹⁴Davidson and Oleszek, p. 25.

⁹⁵Ibid., p. 27.

⁹⁶Congressional Quarterly, p. 113.

⁹⁷Galloway, pp. 54-55. See also: Congressional Record, 45
61st Congress, 2nd session, March 16, 1910, p. 3243.

⁹⁸Davidson and Oleszak, p. 33.

⁹⁹Davidson, p. 103.

¹⁰⁰Ibid.

¹⁰¹Davidson and Oleszek, p. 33.

¹⁰²Davidson, p. 103

¹⁰³"Ironically, the House under Speaker Cannon was clearly
anti-reform, yet probably had more power in the political system than
at any other time." Davidson and Oleszek, p. 3.

¹⁰⁴These matters are discussed succinctly and separately by
the writers at Congressional Quarterly. See pp. 121-128, 131-132.

¹⁰⁵Davidson and Oleszek, p. 33.

¹⁰⁶Ibid., p. 35.

¹⁰⁷Roland Young, This Is Congress (New York: Knopf, 1943).
Cited in Ibid.

¹⁰⁸Congressional Quarterly, p. 120.

¹⁰⁹Ibid., p. 122.

¹¹⁰Until a very few years ago, students of government in
general and students of Congress in particular were instructed in the
mysteries and minutiae of the Committee system in the House as the

central phenomena of inquiry. The literature which supported this education was voluminous, and ranged from the "How a Bill Becomes a Law" stuff of undergraduate courses, to learned monographs and scholarly disquisitions in the professional journals. What has happened, however, since 1978, is a considerable disruption in the continuity of past Congressional practices, until it is fair to say that the Congress of Lyndon Johnson's day no longer exists. Though the literature of the earlier period comprises most of what political scientists know about Congress, it is important that those who have passed the age of thirty realize that the institution is no longer what they studied in graduate school. From the standpoint of a writer of a PhD. thesis, this institutional change has brought the incomparable advantage of drastically shrinking the quantity of written materials for which he may reasonably be held responsible. For added discussion of this subject, see Joseph Cooper and William West, "The Congressional Career in the 1970s," in Dodd and Oppenheimer (eds.), Congress Reconsidered, p. 92.

¹¹¹We are nowhere going to attempt any kind of treatment of the role Congress is, has, or ought to be playing in the foreign policy area. The domestic side of its difficulties and history provide ample material for a good sized cud for even the most pedantic student of U.S. Government. But I. M. Destler has pointed out what he calls a "core political-procedural dilemma" in foreign policy which is parallel, if not identical to the one we have been tracing through its consequences for domestic policy and the changing nature of government in the U.S.: the tension which persists between the requirements of representative government and the requirements of effective government. "In significant part, this flowing and ebbing of congressional standing is a function of two factors: substantive preferences and the presence or absence of crisis. . . . The second factor, crisis, usually reinforces presidential power and the argument that the president needs the flexibility to respond. But the deeper cause of executive-congressional conflict is a core political-procedural dilemma. Americans want two things that often prove incompatible in practice: democratic government (involving ongoing competition among a range of U.S. interests and perspectives) and effective foreign policy (which requires settling on specific goals and pursuing them consistently). To reconcile these competing needs insofar as they can be reconciled, the framers of the Constitution established, in Richard Neustadt's apt phrase, a government of "separated institutions sharing powers." See: I. M. Destler, "Executive-Congressional Conflict in Foreign Policy: Explaining It; Coping With It," in Dodd and Oppenheimer (eds.), Congress Reconsidered, pp. 297-298.

¹¹²Congressional Quarterly, p. 130. "The focus of reformers became much broader during the [Second World] war. . . when the capacity of Congress as a whole to function effectively as a co-equal

branch came under attack. This situation led to passage of the Legislative Reorganization Act of 1946.

¹¹³Robert A. Dahl, Pluralist Democracy in the United States (Chicago: Rand McNally, 1967), p. 141.

¹¹⁴Congressional Quarterly, Origins and Development of Congress, pp. 118-119.

¹¹⁵Dennis S. Ippolito, Congressional Spending: A Twentieth Century Fund Report (Ithaca, N.Y.: Cornell University Press, 1981), p. 33.

¹¹⁶Galloway, p. 318.

¹¹⁷Congressional Quarterly, p. 131.

¹¹⁸Ibid., p. 132.

¹¹⁹Galloway, p. 322.

¹²⁰For a sympathetic account of what it felt like to be a member of the southern Democratic wing of the conservative coalition during these years, see: John F. Manley, "The Conservative Coalition in Congress," in Peabody and Polsby (eds.), Congress and the Presidency, pp. 98-107. See also: David E. Brady and Charles Bullock, "Is There a Conservative Coalition in the House?" Journal of Politics 42 (1980), 549-559; and by the same authors, "Coalition Politics in the House of Representatives," in Dodd and Oppenheimer, Congress Reconsidered, pp. 187ff.

¹²¹David Brady and Charles Bullock, 1981, p. 198.

¹²²Ibid. This article contains a good, brief description of the history and origins of the conservative coalition in the House. Note the point they make on page 210. Conservative coalition not only weakened Democratic Party, it set in motion a serious pattern that continues to this day: "party leaders are faced with the task of putting together shifting coalitions in order to pass legislation." Brady and Bullock call this a reflection of the Balkanization of America. . . .

¹²³Report of the Committee of Congress of the American Political Science Association, The Reorganization of Congress (Washington, D.C.: Public Affairs Press, 1945), pp. 80-81. Cited in Congressional Quarterly, p. 135.

¹²⁴Davidson and Oleszek, p. 3.

¹²⁵Ibid., p. x. This is one of those issues which ought to divide the profession were it to be accorded a prominent place in current discussions of Congressional efficacy. Indeed, if one rummages through the literature to find comments about Congressional passivity and executive initiative, one finds disagreements in plenty--but these are buried in asides which more often than not simply serve to pave the way to more specialized discussions of some attribute of current legislative practice. Here are a number of examples. In their Preface to Congress Against Itself, p. x, Davidson and Oleszek note that, "Two colleagues, Joseph Cooper of Rice University and David Brady of the University of Houston, observe that at least since the downfall of Speaker Cannon in 1910, the House of Representatives has manifested a prolonged 'crisis of adaptation,' in which it has failed to adjust its internal practices to cope with the rapidly changing national and international environment. Lacking the strong centripetal force of powerful leaders or disciplined parties, the House has become ever more fractionalized and unmanageable. It is possible, of course, to reject the assumption that Congress is properly passive, which is embodied in the part of this statement about Congressional 'failure to cope,' and accept the assertion that the House is both fractionalized and unmanageable. Other examples of this viewpoint abound. In the collection of articles edited by Mann and Ornstein, we find Roger Davidson at page 101: "Like all organizations, Congress strives for self-preservation, protecting its autonomy and influence. To maximize its survival in such terms, it must adjust successfully to external demands while coping with internal pressures." Again, at page 131, he notes that "Congress is inevitably a reactive institution. . . ." Michael Malbin, in his "Delegation, Deliberation, and the New Role of Congressional Staff," in the same collection, page 170, notes that Congress is coping successfully: "The increased use of personalized, entrepreneurial staffs has helped Congress retain its position as key initiator of federal policy, despite the growing power of the executive branch." Barbara Sinclair in the same collection, makes an observation which goes to the heart of the problem for one who seeks an evaluation of the institutional efficacy of Congress in ordinary times. She finds the body at its best during crisis periods: "Congress is a reactive institution; it cannot anticipate. It is not, however, impervious to strong stimuli from its environment. A crisis, a strong clear demand from the public for action, will produce a congressional response, as it has throughout this century." See page 220. For Charles O. Jones, executive initiative sets the pattern of action in government, and Congress is best off when it does not try too hard to play this role for itself: "I have used the word 'pretentious' to characterize the initiator role because I believe it is inordinately ambitious for Congress to prepare itself to initiate comprehensive policy programs. Having undertaken such a complex assignment, a legislature may not know where to stop imitating the executive." See Ibid., p. 234. Finally, in the collection of articles edited by Dodd and Oppenheimer, p. 345, we find Morris

Fiorina undertaking a cogent discussion of several possible avenues of institutional reform which could increase the responsiveness of government to a variety of pressures. At one point, he discusses, "bringing congressional and presidential incentives into closer agreement. . ." via the imposition of a strong party system upon the existing electoral structure. While this is not his final, or ultimate recommendation, it is obvious that this formulation is key to the understanding which many contemporary students of Congress bring to the problem. With few exceptions, most professional students seem to accept without question the notion that Congress can serve us all better by adapting to the complex pressures of our technological civilization; this chorus drowns out the occasional voice which would return primary responsibility for the initiation of policy to that body. This overwhelming imbalance of opinion, were it to be quantified, would give us a pretty accurate indication of the extent to which our general body of assumptions about the balance of power in Washington has shifted since 1933.

In general, the lack of agreement among scholars about whether Congress can or should be the primary initiator of public policies is complicated by the fact that it is really a debate about two separate questions. The first raises a matter of practical possibility; the second concerns questions of Constitutional interpretation and moral prescription. The fact that, for the most part, Congress does not initiate major policies can, in its turn, give rise to a plurality of scholarly viewpoints. One such, as we have seen, is that it should not try to be the initiator. Another is that Congress, not the executive branch, should be the primary initiating agent in areas of broad policy, as it now is for the distribution of particular goods. Given this latter approach, the interesting question is whether Congress can be constituted to enable it to so act, and what conditions and circumstances seem necessary to make real Congressional agency possible.

¹²⁶Galloway, History of the House, p. 60.

¹²⁷Davidson and Oleszek, p. 13.

¹²⁸Ibid., p. 7.

¹²⁹Galloway, p. 61.

¹³⁰The Act is discussed at various lengths in numberless places. Among them see: Richard F. Fenno, Congressmen in Committees, (Boston: Little, Brown, 1973), pp. 16, 290; Congressional Quarterly, pp. 135ff, et. passim; Davidson, p. 102; Davidson and Oleszek, pp. 51-52, et. passim; Malbin, 1980, p. 165; and Galloway, pp. 60-64, et. passim.

¹³¹ See Weatherford, p. 179. After three generations of public pressure, committee meetings were finally opened to the public.

¹³² Davidson and Oleszek, p. 52.

¹³³ See the Introductory sections of the Bolling Committee Report: "Despite the consolidations of the 1946 Reorganization Act, subcommittee proliferation since then has brought the number of separate working groups in the House to an all-time high." Report of the Select Committee on Committees, U.S. House of Representatives, Committee Reform Amendments of 1974, Rept. 93-916, Part II (Washington, D.C.: Government Printing Office, 1974), p. 11.

¹³⁴ See Davidson and Oleszek, 1977, p. 54. "Jurisdictional confusion was especially prevalent in broad-gauged issues that had emerged since 1946. Mass-transit legislation, for example, had somehow wound up in the Banking Committee. Apparently the logic was: monetary policy directly affects housing, housing affects urban areas, and mass transit serves urban areas--hence, the Banking Committee was entrusted with mass transit."

¹³⁵ Samuel Huntington, "Congressional Responses to the Twentieth Century," in David B. Truman (ed.), The Congress and America's Future (Englewood Cliffs: Prentice-Hall, 1965), p. 21.

¹³⁶ Galloway, p. 63.

¹³⁷ Clinton Rossiter, The American Presidency (New York: Harcourt, Brace and World, 1956), pp. 82-84. Cited in Galloway, p. 330. Note that even the landmark legislation contained in the civil rights bills of 1956 and 1960 was Republican in origin and pushed through House and Senate by Rayburn and Johnson only through the use of what were considered fairly drastic measures.

¹³⁸ Merle Miller, Lyndon: An Oral Biography (New York: G. P. Putnam's Sons, 1980), p. 160.

¹³⁹ Huntington, p. 22.

¹⁴⁰ Dahl, p. 142.

¹⁴¹ Huntington, p. 19.

¹⁴² Committee for Economic Development, Making Congress More Effective: A Statement on National Policy by the Research and Policy Committee (New York: Committee for Economic Development, 1971), p. 11.

¹⁴³ Nelson W. Polsby, "Strengthening Congress," in Nelson Polsby (ed.), Congressional Behavior (New York: Random House, 1971), pp. 3-13.

¹⁴⁴ *Ibid.*, p. 7.

¹⁴⁵Ibid., p. 13.

CHAPTER IV

THE CONTEMPORARY CONGRESS: THE COLLAPSE OF INSTITUTIONAL PAIDEA AND THE ISOLATION OF THE INDIVIDUAL MEMBER

It was now late in the evening, about 10:50, and the chamber was crowded with over three hundred congressmen, most of whom were anxious to go home. Every time a member rose to propose an amendment to [the bill], the chamber echoed with a chorus of cat-calls, hoots, and groans. Members kept shouting "vote!" "vote!" Chairman Natcher tried to maintain order and repeatedly pounded his gavel to silence the chamber, but the sentiment of the House was to finish debate once and for all. Finally, after four amendments were quickly considered and rejected, no one rose to offer another.

The question, Chairman Natcher said, was now on the adoption of the [bill]. Bolling demanded a roll call vote. As occurred on all key recorded votes, proponents and opponents rushed to and fro talking with their colleagues; they manned the doors leading into the chamber and grabbed members as they entered urging them to vote this way or that; and the respective floor managers offered advice on how to vote if asked by a colleague. As the allotted fifteen minutes for a recorded vote slipped by, with members following the tally on the electronic scoreboards on either side of the chamber, it became clear that the bill would be adopted. . . . Bolling sat calmly throughout the vote, remarking to an aide that at this stage he simply wanted the democratic process to work. The [bill] was adopted by a vote of 203-165. The Committee of the Whole rose, and the House voted 359 to 7 to approve. . . .

Davidson & Oleszek.
House passes Committee Reform Bill
8 October, 1974

Birth of the Contemporary Congress: The Reforms of the 1970s

From the late 1930s to the late 1960s, a very distinctive type of House existed. It took shape over several decades in response to the breakdown of the highly centralized and

party-dominated House of Speakers Thomas Reed (1889-1891, 1895-1899) and Joseph Cannon (1903-1911). This House, which for convenience may be called the Rayburn House, was distinguished by the high degree of allegiance commanded by a constellation of norms quite familiar to the present generation of political scientists: seniority and apprenticeship, reciprocity, specialization, civility, accommodation, tempered partisanship, and institutional patriotism. It was also distinguished by the high degree of power wielded by committees and committee chairmen and by the dominant status of majority party units, such as the party caucuses and steering or policy committees. The prevailing leadership style was accordingly highly personal, informal, permissive, and consensus-oriented. . . .

By virtue of historical accident, this type of House was at full strength at the time of the behavioral revolution in political science. Consequently, its norms, structures, and leadership style were treated for many years as if they were permanent or inherent features of congressional politics. . . .

Events since 1969, however, have shattered the illusion of an historic or even archetypal House. Rules and practices in the House have altered substantially due to a series of Democratic Caucus reforms and to more basic underlying forces of which these caucus reforms were only an expression. What has become clear with the passage of time is that a new and very different type of House has been emerging in the 1970s.¹

Like so many other movements in politics, the reform movement of the 1960s and 1970s did not appear sudden and unannounced, as we have seen. In part, it grew out of certain manifest failures of the Legislative Reorganization Act of 1946; in part it grew out of generational, demographic and electoral changes which had been held in abeyance during the World War II years only to begin to impinge upon the two major parties as the 1940s came to a close. In part, the reforms can be traced to fundamental changes in the ethos of the country at large--now considerably more liberal in its basic political philosophy than it had been before the Roosevelt years. Such factors

remained in the background for a considerable time, and began to exert historical influence only gradually and incrementally.

If one were to seek out an embryonic incident, a small change that would foreshadow much that was to come, one could do worse than to single out the imposition of the "Johnson Rule" upon the Senate in 1954. Here we find a new generation of party leader seeking ways to distribute power more widely and equitably throughout the chamber. Looking at the Senate from the vantage point of his new position as Democratic Party leader, the forty-six-year-old Johnson could see the drawbacks of a seniority system under which only those senators who had considerable seniority were able to serve as members on one of the "desirable," i.e., powerful, committees.

. . . Such a system, Lyndon decided, was anachronistic, and now he was leader of his party and in a position to do something about it. He called a meeting of the Steering Committee of which, as leader, he was automatically chairman, and, by way of softening what would be an unpopular proposal, related a story he was to repeat many times in varying versions and under varying circumstances:

"When I was a boy in Texas, I was a good friend of the Crider boys, Ben and Otto. Now Ben was older, and he was kind of sturdy and outgoing and popular among the boys, and Otto, well he was more shy and retiring.

"So one day I was over there at the Crider house, and it was the weekend and no school the next day, and I asked Otto if he could come over to my house for a day or two. But Miz Crider, when we asked her, she said, 'No.' No reason, she just said, 'no.'

"And Otto, he began to protest, and he said, 'But mama, why can't I go? Ben, he's already been twowheres, and I ain't never been nowheres!'"

And then, in case the analogy had escaped anyone, Johnson went on to correlate the less desirable committees with nowheres, and particularly this year when there was such a good crop of new Democratic senators-John Kennedy of Massachusetts and Stuart Symington of Missouri and Mike Mansfield of Montana, to name a few--wouldn't it be a good

idea to revise--not scrap, mind you, just revise--the seniority system to provide that no Democratic senator could be on two good committees until all were on at least one good committee?²

Johnson got the plan accepted, first by the Democrats and later, as Majority Leader, made it the rule of the Senate. Here was an early precedent then: those lower down the ladders of the seniority system would have positions of power and influence available to them. It was a kind of opening wedge, and it provided those who looked up with leverage.

Throughout the 1950s, the general level of Congressional legislative achievements was high, and its public approval rating, as measured by the polls taken at the time, was consistently above the 60% mark. This was due to the combined internal influence of Rayburn and Johnson and the external popularity of Eisenhower. The Congressional leadership successfully used personal knowledge of individual member needs to informally enforce discipline upon the Congress with respect to important legislative initiatives. At the same time, however, the House found itself blocked repeatedly, as it strove to enact liberal measures, by the continuously long-playing and deeply entrenched conservative coalition. This minority now controlled the Rules Committee--without the approval of which no bill reported by any committee could reach the floor. Much has been made of the generational, sectional and ideological differences which separated the members of the coalition from the representative body at large in this period,³ and such factors were to play a crucial role throughout the

succeeding period of struggles over reform. In 1961, the younger, liberal members of the House prevailed upon Speaker Rayburn to acquiesce in their efforts to enlarge the recalcitrant committee and alter its balance of power.⁴ Again, in 1965 this same group, engorged with new blood by the Johnson landslide, succeeded in further weakening the Rules committee, first by reinstituting the lapsed 21-Day Rule of 1949 and second, by making it easier to circumvent Rules when remitting passed legislation to Conference.⁵ By 1967, it had at last become possible for an electorally altered Rules Committee to impose on itself formal rules of internal procedure and to diminish its chairman's powers. These innovations enabled the House as a whole to provide substantial cooperation to the Democratic leadership and ended ten years of agitation for reform of the Committee.⁶

Simultaneous with this came another set of developments, rooted in the Democratic Study Group (DSG), an organization of Democratic liberals committed to liberal legislation and liberal control of the House. This group pushed for changes in House procedures and party practices which at last resulted in the Legislative Reorganization Act of 1970. Operating largely at the expense of the hierarchy of committee chairmen, the Act served to liberalize and formalize parliamentary procedure in committees and on the floor of the House.⁷

But these were really minor changes compared with what was to come. The historical tide was running to the younger liberals in the chamber, as the old conservative southern chairmen reached the ends of

their careers, the civil rights movement captured the sympathy of the country, and the ever-escalating war in Viet Nam gradually gave birth to a Congressional resolve to shorten the Presidential tether in the foreign policy area. Finally, the Watergate scandals provided the members of Congress with an extraordinary situation in which the nouveau arriviste liberals, at last within reach of the highest rungs of institutional power within Congress, could successfully open the spillways of a vast pool of stored up political ambition and desire for change. Successive waves crashed over both Congress and the Presidency, each leaving an altered landscape behind it. As we shall see, it was the Congress that would be the more changed, and the changes themselves would engender unintended consequences--as institutional changes usually do.

How might we sum up the forces which swept up and over the Congress at the period of greatest reforms since the Cannon revolt of 1910? They produced changes in Congressional procedures and changes in the structure and power configurations of House institutions. As such, they constituted a fundamental upheaval in the manner that power is held and exercised there. Since these internal institutions, as we have argued previously, provide the institutional context for the daily habits of life of the average member, they exert the greatest possible influence over his activities. To the extent that changes in House institutions produced a different House, then, they also are even now beginning to contribute to the emergence of a different kind of individual member--one who, as he has gained influence and con-

fidence with each successive wave of change, has been proportionately enlarged in numbers and emboldened in designs. What follows is the briefest sketch imaginable of the reforms of this period, taken primarily from the account of Davidson and Oleszek. This will be here presented to provide background evidence for the notion that a new kind of House institution has emerged. If one were to attempt to ascribe a general pattern to the politics of this development, I would say that changes in one area of internal House political activity themselves became the basis for subsequent and more far-reaching alterations later. For example, neither the Johnson Rule in the Senate nor the reform of the Rules Committee in the House at first signalled matters of great import. But these innovations themselves insured that subsequent questions of organizational change could not anticipate traditional modes of treatment, and when the all-out assault on the traditional committee system finally came in 1973, that system proved unable to exercise the vital functions of self-preservation.

Substantive changes began in the Democratic Party Caucus, which first tentatively and then decisively focused its attention on the power of the committee chairmen who had effectively ruled the House since the overthrow of Speaker Cannon. Elevated through the autonomous processes of the seniority system and acting as agents of local constituency interests, these individuals had long prevented the formation of effective national constituencies for general issues within the largely decentralized House. This had set up a situation

which many of the younger and more liberal members had found increasingly nettlesome:

The decline of first the Speaker and then the caucuses [had] reflected a profound change in Congress: heightened independence of members and diminished party loyalty. "Freedom from party control," one writer observed, "[meant] . . . freedom from assuming responsibility for a national program."⁸

Though the chairmen embodied personal concentrations of power, they owed their influence to the seniority system itself--that effective and equitable mechanism which the reformers of 1910 had thought could replace the arbitrary decisions of party leaders in distributing powers and privileges. That the seniority system had effectively taken the personal element out of such distribution was undeniable; that it had also entailed other consequences, equal in political impact and as fully capable of giving rise to resentment and opposition, was also undeniable. According to Davidson and Oleszek, seniority overrepresents certain political factions at the expense of others.⁹ The south, of course, was chief beneficiary here, and its "apostate barons" worked together to make Congress an extremely inhospitable environment for liberal legislation as we have seen. The old Chairs were at odds with the national policies of an increasingly liberal national party;¹⁰ they reflected the electoral victories of the party as it had existed a generation earlier;¹¹ they tended to make their House careers their life's vocation and clung to power until well into their seventh and eighth decades, effectively robbing the middle ranks of the party of influence, and denying an effective sphere of action to the energies and ideas of those who were in the

prime of life.¹² As Davidson and Oleszek note, "Not only does such a system waste talent in the middle seniority ranks, but it generates frustration and resentment."¹³ The attack on the seniority system, when it came, occurred on three fronts: first, from within the committees themselves; second, from within a rejuvenated Democratic Party Caucus; third, through rules changes which increased the number of leadership posts and multiplied the powers and influence of subcommittees.

Revolts from within committees were episodic and piecemeal, and while they both served to correct specific malpractices within limited areas, and reflected the first effective stirrings of widespread dissatisfaction, such "localized" corrections of the errors of power did not have fundamental effects upon party or House practices in general. Nevertheless, the Education and Labor Committee experienced two revolts--one in 1959 against Graham Barden of North Carolina, and another in 1966 against Adam Clayton Powell of New York.¹⁴ The Post Office Committee had its own fling at the expense of Chairman Tom Murray in a 1965 revolt which "took everything away from Murray but his gavel."¹⁵

But much more far-reaching and historically important actions were undertaken from within the Democratic Party Caucus. This group, nominally supposed to ratify the committee assignments made by the Committee on Committees, had allowed this function to lapse unused since 1951. In 1965, however, it rather suddenly determined itself to apply the rules, and strengthened in this resolve by the new influx of

liberals following the previous fall's elections, prevailed upon Speaker McCormack to call a second caucus. With this foot in the door, the liberal reformers struggled to establish precedents for caucus review of seniority privileges--based on the notion that neither committee assignment nor seniority was an automatic right, but that each was a privilege granted by the caucus.¹⁶

A number of actions swiftly followed this refreshing change from the language of "rights" to the language of "privileges." Two Democratic supporters of presidential nominee Goldwater lost their seniority in 1965; Adam Clayton Powell lost his own seniority--though not for supporting Goldwater--in 1967; in 1971 two challenges were turned back by close Caucus votes. Each of these actions helped to establish precedents that would make legislators more responsible to the Caucus.¹⁷

Finally the frontal assault on seniority was launched by the Democratic Study Group initiative early in 1970. It was proposed that the Caucus select a committee to study the questions raised by the seniority system in general. This move met with the approval of the Caucus, and Chairman Dan Rostenkowski appointed what was to be known as the Hansen Committee. The Hansen committee's recommendations further clarified procedures for selecting committee chairmen: the caucus would take up the recommendations of the Committee on Committees one committee at a time, and any ten members could demand a separate Caucus vote on any portion of the recommendations.¹⁸ These and other innovations were adopted by the Caucus.

Other challenges to the chairmen followed. In 1971, John McMillan, head of the District of Columbia Committee, was vigorously challenged in caucus and given a bad fright. In 1973, the liberals managed to secure secret ballots in the caucus, if requested by one-fifth of the Democrats present. This device, of course, shielded insurgent hoi polloi from possible vengeful machinations from above, inasmuch as some of the powerful chairmen were known to be capable of holding grudges.

By the time that the 94th Congress convened, seniority leadership had been decisively altered and the traditional arrangements were in shambles. In a series of actions taken in December 1974 and January 1975, the Caucus completed the process begun by liberal reformers ten years before. First, the functions of the Committee on Committees were taken away from the Democratic members of Ways and Means and turned over to the Steering and Policy Committee. Second, secret ballots were now to be taken on the selection of all chairmen. Finally, the chairmen of three committees were actually removed by votes of the caucus.¹⁹

Davidson and Oleszek note that a third method of circumscribing the power of the committee chairmen and weakening the influence of the seniority system was the institutionalization of subcommittees. In terms of our own concerns with House evolution and institutionalization, I think that this will turn out to have been the most important and far-reaching development of all.

. . . Though not unknown in earlier times, subcommittees

received a major impetus when the Legislative Reorganization Act of 1946 reduced the number of standing committees from forty-three to nineteen. Many of the abolished committees simply continued as subunits of the newer, larger committees. The fourteen Congresses following implementation of the 1946 Act boasted an average of 128 House subcommittees apiece.²⁰

This alteration had two major consequences. First, the power of the committee chairmen was inversely related to the vigor and autonomy of the subcommittees. Second, as the subcommittees gained in power and influence, the goals of increased democratization and meaningful participation in the direction of House affairs were attained for a broadened stratum of the membership. At the same time, however, we shall see that this historical turning did not necessarily yield a more effective House, nor did it serve to help redress the imbalances of power between the branches that had steadily elevated the Presidency for forty years.²¹

Among the Hansen Committee recommendations was a provision which had affinities to the Johnson Rule: no legislator could be a member of more than two legislative committees, no member could head more than a single legislative subcommittee, and no chairman could head more than one subcommittee within his own committee.²² Two years later, the caucus further strengthened both subcommittees and the individual member of middle rank by enacting what came to be known as the "subcommittee bill of rights." This gave the subcommittees greater autonomy from control by the chairmen of the full committees. The writers for Congressional Quarterly outline this important step as follows:

- 1] Establishment of a Democratic Caucus on each full committee, forcing chairmen to share authority with other Democrats. The committee caucus was granted authority to select subcommittee chairmen, to establish subcommittee jurisdictions, to provide adequate subcommittee budgets, and to guarantee all members a major subcommittee assignment as vacancies opened up.
- 2] Requirement that committee chairmen refer legislation to appropriate subcommittees within two weeks, thus preventing chairmen from killing bills by not scheduling them for committee action.
- 3] The right of subcommittee chairmen and ranking minority members to hire one staff member each to work for them on the subcommittee. The purpose of this staff assistance was to help keep the subcommittees independent of the chairman of the full committee.²³

In addition, subcommittees would be able to hold hearings, receive evidence and report to their full committees.²⁴ Note that the basis for allocating subcommittee chairmanships and memberships would continue to be that old standby: one's seniority on the full committee itself.

This reform had two outstanding consequences. First, it immeasurably strengthened the power of the subcommittee chairmen, at the expense of the chairmen of the full committees, and considerably decentralized House power at the expense of the leadership. Second, it benefitted the liberals who dominated Democratic Party middle seniority ranks and who were therefore in line for the lion's share of the new subcommittee chairs. These were the individuals now empowered to hold hearings, initiate legislation and generally push for a more activist role for themselves and their little committees. The cumulative effects of such developments were to further reduce the powers of

the chairmen and force them to adopt a more consultative style of leadership,²⁵ and to drastically increase the quantity of hearings at both the subcommittee and full committee levels. David E. Price wrote that "pressures for the dispersal of authority and resources show few signs of abatement."²⁶ Note, however, that sunk in this pudding of caucus and subcommittee reforms was a large fat raisin of irony:

In one sense, the seniority principle emerged even stronger with the 1965-1975 innovations. True, the caucus was not committed, at least in principle, to the idea that seniority need not be followed inflexibly in selecting committee chairmen. Yet, the thrust of the reforms was to spread the benefits of seniority beyond the standing committee chairmen to the more than 130 subcommittee chairmen. Ironically, there were in 1975 more seniority leaders than ever in the House of Representatives, and, within the committees, the seniority principle was extended to apply to subcommittee chairmanships--again to circumscribe capricious committee chairmen.²⁷

Those inclined to keep track of and worry about such problems as jurisdictional politics within the chamber will not be comforted by noting that increased decentralization and democratization entailed a leap in the order of magnitude of the number of conflicting jurisdictions. Although by no means the only factor involved, this particular problem contributed much to the overall tendency of the House to divide against itself and to collapse into fits of paralysis when confronted with general issues:

By the 1970s, jurisdictional entanglements seriously impaired the ability of Congress to respond in a timely and coherent fashion to public problems. Studies initiated by the Select Committee showed unmistakably the disarray into which the House's policy-making structure had fallen. Jurisdictional conflict was endemic, and hundreds of such cases, involving virtually every committee, were detailed in the staff-prepared monographs. Following the imperatives of bill

referral politics, alert legislators had historically shaped the structure by drafting bills designed for reference to their own committees. Likewise, interest groups or governmental agencies preferred to have legislation written so that it would be handled by friendly rather than hostile committees. Once handled by a given committee, a law remained there by precedent. The result was a vast de facto structure of responsibilities that often bore only the vaguest resemblance to the House rules.²⁸

The result, then, was twofold. First, the power and standing of those in the middle seniority ranks had been increased and their outstanding grievances redressed. Second, the complexities of bill referral politics were also increased, and, therefore, the amount of time and energy required for matters of formulating and passing legislation were proportionately diminished. The final outcome was that the powers of Congress as an institution were not particularly enhanced, nor was the efficacy with which it handled its Constitutional duties improved.

According to Davidson and Oleszek, these changes ushered in the era of "subcommittee government"²⁹ which was characterized by increases in the number of working units, leadership posts, hearings and meetings.³⁰ Note, however, that on their analysis, these developments did not yield the greater benefits usually held to follow from the committee specialization and expertise, and which Polsby and others had praised earlier.³¹ The average size of House Standing Committees had increased; so had the number of committee and subcommittee assignments for which individual members were responsible. Indeed, the average member now had a total of 5.56 assignments³² and the physical impossibility of carrying out this workload led to

widespread absenteeism and meeting-hopping--both, as we shall see, symptoms of deeper evolutionary changes in our national institutions. Davidson and Oleszek hold that by this time, in the early 1970s, the committee system was seriously overextended³³ and that the problem ultimately stemmed from a lack of adequate central coordinating mechanisms in the chamber. In other words, from our own perspective we can see that the problems which underlay Congressional ineffectuality in 1814 had returned, even though they now had different causes and took a different form. During the earlier period, a rough system of actual representation on the various committees had made the formulation of consensus virtually impossible; during the 1970s, the consensus problem was compounded by squabbles over jurisdiction. This meant that the political question of "who is going to decide," which the Constitution had adjudicated in favor of the national legislature, was taken up anew inside that legislature. It therefore posed itself two great questions instead of one. That this was and continues to be the primary characteristic of the jurisdictional maze of subcommittees in the House will become apparent soon enough.

It is important, meanwhile, not to lose track of the fact that all of the reforms so far reviewed took place within the Democratic Party Caucus, and had not been extended to the formal rules, and therefore to the structure of institutionalization of the House itself. However, by 1973, it was becoming clear to an increasing number of members that the restructuring of the entire committee system had once again become a piece of business that could not be

postponed:

If, however, the caucus reformers succeeded in taming the committee leadership, they did little to resolve the problems caused by the underlying fragmentation of the committee system itself. To the extent that the reforms helped institutionalize the subcommittees, in fact, they actually increased their autonomy. Any efforts to reorganize the committee system in the House would have to cope with that fact. The question even arose whether such a decentralized legislative body could successfully complete a major reorganization. The Speaker and the Minority Leader were convinced of the need to restructure the committee system, but with so many members having a stake in the system, would significant changes be possible? This was the situation that the Select Committee on Committees confronted as it undertook its assignment.³⁴

Davidson and Oleszek provide several fundamental reasons for which the House as a whole was persuaded to undertake internal reforms at this time. First was the problem of decentralization:

Reforms involving institutional prerogatives usually seek to strengthen Congress as a co-equal branch of government. These might involve both a restructuring of Congress' organization and procedures, and the redistribution of authority within the chambers. They are designed to enable Congress to assert or to reassert control over governmental activities and constitutional responsibilities.³⁵

The lack of central coordinating mechanisms and leadership within the chamber made it difficult if not impossible for Congress to consider the broad and general questions at the bottom of public policy;³⁶ second, the committee chairmen, as leaders in some sense of a national party, were unrepresentative of the Congressional members of that party and therefore of that party as it had been articulated by the electoral decisions of the voters;³⁷ third, the problem of jurisdictional politics, as we have just seen, was on the way to becoming insurmountable; fourth, and most important in my view, was the

generally recognized need for an effort to strengthen the House.³⁸ That some committees functioned better than others was clear enough,³⁹ and that, taken together, the committees constituted a structure of power within the institution which contributed to its weaknesses in the face of executive power was becoming more widely accepted.⁴⁰ As far as many members were concerned, it was just possible that "committee reform might help to restore the health of the policy-making partnership that the Framers had intended."⁴¹

Such reasons introduce a healthy dose of ambiguity for the historian to reckon with. Some of these issues concern individual member power and career needs; some of them concern factors which go to the heart of the problems raised by the presence of parties in a legislature; some concern the perennial conflict between actual representation and the need for coordination and consensus within an elected collegial body; some concern the balance of power between branches of a mixed government. Obviously, none of these can be considered "ultimate" or "final" or "the" reason which most completely explains why the reforms were undertaken. It should be clear, however, that an absence or negation of actual, usable House power moots all other questions.

Unlike other congressional bodies, the Select Committee did not begin with those habits of cooperation that can develop when members work together year after year. Its members had to learn to work together as a group and master their subject matter, all within the span of a single Congress. Their assignment, moreover, was a complex and delicate one, demanding a working knowledge of every one of the House's standing committees. The task had not been undertaken in twenty-eight years, nor had any of the members ever served on a reorganization committee.⁴²

This Select Committee was a bipartisan affair⁴³ to which the Democratic members were appointed by Speaker Albert and Representative Bolling, and the Republican members by minority leader Gerald Ford.⁴⁴ In its political principles, it seemed to be an ideological microcosm of the House itself;⁴⁵ in its actions it exhibited many of the characteristics common to House committee procedure: it held hearings, it delegated specific areas of responsibility to its individual members; and in general it refused to adopt proposals which a majority of the committee were convinced stood absolutely no chance of passage by the wider body.

Since the history of the Select Committee's deliberations and the fate of its proposals are the subject matter of Davidson and Oleszek's Congress Against Itself, there is no need to detail them exhaustively here. What is important to note is that in concentrating on the problem of enabling the House to come to grips with the broad and general questions of national concern which were emerging during the 1970s, the Select Committee attempted to substantially alter the structure of the House Committee System, and failing to rest content with changing the jurisdictional boundaries that separated some committees from others, went so far as to propose the outright abolition of some committees and the formulation of new ones. In addition, it attempted to strengthen the role of the Rules Committee in assigning bills to the various committees for deliberation and tried to enhance the power of the Speaker as well. Its proposals were, for the most part, not adopted: the Republican Party generally supported the draft

resolution brought forth by the committee, but the Democrats--who, after all, had the most to lose as individuals--refused to go along and decided in the Caucus to reinstitute the old Hansen Committee instead. This group, ill-prepared to perform in six weeks a task which had occupied the Select Committee for over a year, nonetheless succeeded in formulating an alternative plan which retained some of the Select Committee's suggestions with regard to procedural changes, while simultaneously divesting those proposals of nearly every scheme that involved substantive committee reorganization. Nonetheless, it was the proposals of the Hansen Committee rather than those of the Bolling Committee which were finally adopted by the House. Davidson and Oleszek sum up:

What the House approved when it adopted the Hansen substitute was a mild dose of committee reorganization. In effect, the House adopted the version of committee reorganization that made the fewest jurisdictional changes. No legislator would have to relinquish a committee, and no committee was abolished. Responsibility for major policy areas (energy, environment, and so forth) remained scattered among several standing committees. Some committees (Ways and Means) were still overworked and others underworked. . . . The jurisdictions of several major committees--Appropriations, Armed Services, and Rules--were basically left untouched. The reshuffling represented little change from the status quo.⁴⁶

Note that what had taken place here was an action unprecedented in modern times. Not since the days of "King Caucus" had a party committee dared to take over a House committee's measure and completely rework it.⁴⁷ All in all, however, the Hansen Committee's alternative proposals did not add up to a very great deal of reform and this, of course, was the secret of their success in the House as a

whole. With hindsight, it is easy to see that the fate suffered by the Bolling Committee proposals followed as an unintended and unanticipated consequence of reforms already taken, i.e., by the rise or emergence of subcommittee government and the distribution of power articulated by that rise. What is most important about Davidson and Oleszek's account of these events is not the specific characteristics of the Select Committee's reform proposals, but the political process through which they were formed and the manner in which they were defeated. In essence, the plan for committee reorganization fell athwart a newly entrenched and quite sanguine power structure which was not about to relinquish recently acquired advances in its own fortunes:

. . . in drawing up their committee reorganization plan, the Select Committee's members and staff perhaps made a fundamental conceptual miscalculation. They assumed they were dealing with a decision-making structure of standing committees rather than one whose power had passed in large measure to the subcommittees. The focus on full committees was understandable, in view of their historic primacy in Congress and the attention paid them by the plethora of scholarly writing from Woodrow Wilson to the present. Yet, recent changes inaugurated by the House Democratic caucus in 1971 and 1973 have accelerated a shift from committee government to subcommittee government. Subcommittees have assumed increasing authority and independence in legislative decision making at the expense of the standing committees and their chairmen. The dispersal of power bestowed upon more legislators a power base to nurture and protect. Thus, committee realignment is a more dangerous minefield than ever before. It must accommodate not only the committee chairmen but more than a hundred subcommittee leaders as well. Predictably, a majority of subcommittee chairmen opposed the reorganization proposals in H. Res. 988.⁴⁸

It is therefore possible to see that the political context in which the Bolling plan was derailed is more or less the same as that

which persists in the House of Representatives to this day--despite occasional and intermittent changes which have been inaugurated since that time. Here is how Dodd and Oppenheimer sum up the entire period of House reforms:

These reform efforts had six particularly important consequences. First, they established a clear procedure whereby the Democratic Caucus could select committee chairs by secret ballot. This change in the traditional voting procedure provided a mechanism for defeating renominations of incumbent committee chairs, thereby bypassing the norm of committee seniority. Second, the reforms increased the number and strength of subcommittees. Third, in conjunction with these reform efforts the House moved to open to the public virtually all committee and subcommittee meetings. Fourth, the reforms increased the power of the Speaker of the House by giving him considerable control over the referral of legislation. A fifth change, which was not actually part of these reforms but stemmed from the overall reform movement, was the creation in 1974 of a new congressional budget process and House Budget Committee.

Finally, the defeat of the Bolling Committee provisions restructuring committee jurisdictions left the maze of overlapping committee and subcommittee jurisdictions relatively untouched.

What we see, then, is that the party caucus--but not necessarily the party leadership--has regained control over the distribution of positions of influence within the House. The impartial mechanism of the seniority system is no longer guaranteed to work with automatic regularity, but its extent and reach have been increased. Reforms made in terms of the general interest to strengthen the House were undercut by particular interests which had only gained the power to undercut them by virtue of reforms already made. Outside interest groups, lobbies and support staffs joined the subcommittee chairmen in building the opposition forces that defeated

the Bolling proposals. Altogether they probably provide a strong basis for the prevention of further reforms. Whether the new power of the caucus will last remains to be seen.

There are three important lessons in the history of proposed reforms and the battles to which they give rise as that history is presented by Davidson and Oleszek. The first involves the general matter of jurisdiction; the second concerns the importance of personal power and influence within the chamber and the third concerns the role of special interest groups as supports of personal power.

Jurisdiction can be seen as a formal division in law or authority of the realm of justiciable matters by a court or legislature. What happens, in effect, is that the legislature examines its universe of responsibilities, subdivides this into particular areas, Aristotelian fashion, and assigns them to subsets of itself for action. In practice, in the common law tradition of the United States, such subdivisions have been refined, evolved and solidified according to the dictates of political power and legal precedent. As we moved into the 1970s, a set of broad and general problems began to impinge upon the central government which were not only urgent and important, but cut across the general lines of the logic which traditional jurisdictional areas embodied. Matters concerning energy and the environment provide the most outstanding examples. Morris Fiorina notes that even as late as 1976, jurisdiction in energy matters was divided between eleven subcommittees from six standing committees,⁵⁰ making Congressional action on such important questions

almost impossible to achieve. But "energy" had quite simply not been one of the fundamental categories or organizing concepts in the minds of the members of Congress--not even as recently as the late 1960s. With regard to rapidly emerging problems, then, it does not seem unreasonable to view the institutionalized jurisdiction in Congress at any particular point in time as a representation of a past reality. In this respect the institution literally faces its future backwards, and while the jurisdictional structure is also a valid formalization of past practical experience--and, as such, embodies practices known to work for over two thousand years--it can be seen as an elaborate and deeply ingrained institutional habit that makes it extraordinarily difficult for the assembly to deal with novelty.

The second lesson that can be gained from Davidson and Oleszek is probably older than any known turning to precedent: men in power are loath to part with it, and it was this reluctance to see themselves overruled which defeated the Bolling plan for committee reorganization. The surprise for many had come at the moment that the supposedly liberal Democratic caucus voted to substitute the Hansen Committee for the Bolling Committee. Majority Leader O'Neill best explained why the caucus voted the way it did: "The name of the game is power, and the boys don't want to give it up."⁵¹

The third lesson is in some ways an extension of the second; it has to do with the emergence of coalition politics as distinct from party politics, i.e., with the emergence of alliances that come into existence to suit the purposes of the moment as opposed to such as are

founded on long range programs or plans of government. The Bolling Committee reforms were defeated by the liberals within the Democratic party allied with their usual foes, the chairmen of the few remaining exclusive committees, plus the chairmen of those committees destined for cancellation. The members of this internal ad hoc coalition were aided by their personal staffs and the staffs of the potentially affected committees, and further strengthened in their aims by the efforts of external interest groups whose past political contacts, campaign contributions and inputs into the legislative process had all been formed within the context of the prior existing jurisdictional and power structure.⁵² We shall return to the matter of coalition politics later, but just now I want to point out that first, one would not have expected a reform movement such as this one to have been blocked by liberals, and that second, their successful forays against the Select Committee were made possible by the democratization and decentralization which had themselves been institutionalized only a few years earlier. Reforms which benefitted the individuals in Congress, therefore, seem to have had the consequences of preventing subsequent reforms that might have benefitted the institution as a whole. Nor could solutions to the twin difficulties raised by individual and institutional powerlessness been approached in reverse order: had the reforms with respect to individuals not been undertaken, it would have been even theoretically impossible to attempt changes in the organization of power and authority throughout the institution. That changes of the first order prevented those of the second,

however, could not have been predicted. Representative Bolling described his victorious opponents as follows:

They are the ex-reformers, they're the middle-rank liberals who like their "pads." They are going to use any excuse to prevent change, simply because they like it where they are. Now they're not just time servers--some of them are pretty good men and women who feel strongly that their contribution to society through their particular little subcommittee is critical. They are going to devise a variety of techniques, and they'll join with any allies they need to. And they're very dangerous.⁵³

To sum up all of these developments, the key to understanding the contemporary Congress--as that Congress revealed itself through its opposition to the Bolling plan--is decentralization of power and the rise of the subcommittee. In what follows, we will trace the emergence of the autonomous "entrepreneurial" member on the level of the individual, and the increasingly institutionalized and powerful subcommittee on the level of the organization. The individual member has been raised to uncommon stature by his position on a subcommittee and by his ability to separate crucial issues of local concern from those of either a party or a national interest. Since his own position depends upon the faithfulness with which he addresses the first, he is held to no high standard with regard to the second or the third. Highly trained and proficient in local district politics, he is at the same time less inclined to strengthen and defend the institution of Congress than at any time since the late Federal period. As Cover and Mayhew have put it:

. . . party voting has reached new lows . . . reforms have been decentralizing . . . the House Democratic Caucus has been used less for making policy than for weakening committee

chairmen . . . the influence of the Ways and Means Committee, the chief unit for packaging general policy in the House, has declined precipitously . . . the effects of these declines can be seen in the shoddy handling of general policies in recent years. . . . In short, the House of the early 1980s is characterized by weak party leadership, nonhierarchical committees, a vast array of subcommittees in which members can do their own thing, and an ethic of member equality and member individualism. The Congress we shall have to cope with in the foreseeable future is one less of party management than of decentralized individualism--for better or worse a reversion to the original constitutional design.⁵⁴

The Electoral Connection: Rise of the Entrepreneurial Member
and the Predominance of Particular Interests
over General Interests

In the end, though, all politics is exploitive. What else is new? I am most cynical about the operation of the Washington system for a second, more serious reason. Public policy emerges from the system almost as an afterthought. The shape of policy is a by-product of the way the system operates, rather than a consciously directed effort to deal with social and economic problems. Congressmen know that the specific impact of broad national policies on their districts is difficult to see, that effects are hidden, so to speak. They know too that individual Congressmen are not held responsible for the collective outcome produced by 535 members of Congress. Thus, in order to attain reelection, congressmen focus on things that are both more recognizable in their impact and more credible indicators of the individual congressman's power--federal projects and individual favors for constituents. In order to purchase a steady flow of the latter, congressmen trade away less valuable currency--their views on public policy. The typical public law is simply the outcome of enough individual bargains to build a majority. Maybe that's just politics, but we don't have to like it, and political scientists need not construct silly defenses for it.⁵⁵

Majorities are built in Congress, not elected to it. So far, we have attempted to explore some of the characteristics of the internal House institutions that determine and constrain action on the floor of the House before anyone ever rises to speak. Internal House

institutions were originally intended to aid the process of consensus building by enabling Congress to focus upon great numbers of matters of small detail. Yet all too often they have evolved into independent centers of power within the body, and hence become platforms for obstructionism and give rise to a kind of Congressional paralysis. Such institutions thus exercise functions that are clearly vital to the whole body, yet which are far removed from the floor, from the theoretical nerve center of its activity. Here we take another step away from that vital center, this time going beyond the legislating institution itself to the local district origins of the membership.

From the standpoint of consensus building and institutional function, this is a move away from the politics of formal aspects of the organization of House agency, and toward its "raw" political aspects, in the sense that we are shifting from the dispositions and distributions of acquired power to its necessary conditions. If the construction of majorities in Congress is a consensus building process undertaken to instantiate some policy, election to the Congress follows a consensus building process of its own. No member of any internal Congressional consensus is free to consistently oppose the wishes of his district if he expects to preserve that external consensus upon which his position depends. This is the most obvious form of district influence upon members of Congress as they act both individually and collectively.

Less obvious than possible direct district pressure on members, but perhaps more important in our era, is what local district

representation may be coming to mean in terms of the focus on individual member activities, i.e., the kind of policies in the service of which the member may focus his energy and organize his time. Under the classical model of the representative, he who was sent to the legislature, if he was a delegate, could expect to be compelled to undertake policies or courses of action on questions that involved the polity as a whole according to the wishes of his district. If he was a representative in Burke's sense, on the other hand, he could probably count on keeping a clear conscience no matter what happened, but in any case, consultation with the district was not a great concern. Under the emerging regime, however, the activities of external consensus building that occupy the representatives are incremental, highly diversified, and unrelenting in their demands on his time and attention. Local district consensus must be created and maintained, not by a few great, but by hundreds of small acts, each of which is perceived as vital or favorable by some piece of the electoral mosaic, which must be pleased in most of its parts if the whole is to register a favorable picture of the candidate. To the extent that this is true, issues of a national import have difficulty entering the picture.

The logical place to begin exploring the relationship which the Congressman has with his district is what David Mayhew has called "the electoral connection." Mayhew adopted the heuristic device of assuming that

. . . United States Congressmen are interested in getting reelected--indeed, in their role here as abstractions, interested in nothing else.⁵⁶

He continuously argues for his second fundamental assumption throughout the book. This is, simply stated, that in acting to enhance their reelection prospects, Congressmen come to discover that electoral rewards are conferred upon members for the positions they take publicly and not for the actual effects they achieve in the world. It's not what's done, it's what's said about it that counts. For Mayhew, this ultimately means that it is nonsense to speak of the goals of Congress in terms of collective goods:

It may occur to the reader that the earlier discussion of policy making could have been set up as a collective goods problem. That is, on matters like regulatory policy members could have been portrayed as seekers of effects unable to achieve them because of the difficulty of generating collective action. But to argue this way would have been a mistake. The notion of members as seekers of effects needs a razor taken to it; the electoral payment is for positions, not effects.⁵⁷

If, then, it is a matter of empirical research for Mayhew to discover that the typical member of Congress does not act in order to achieve "effects" that are in the common interest, what sorts of effect does the member seek, and how does he go about pursuing the quest?

What emerges from Mayhew's analysis is that the member of Congress, qua member is formed primarily by the nature of contemporary re-election pressures. As those pressures have changed, so has the relationship between the typical member and the general body. For Mayhew, Congress has become professionalized and promotes careerism among its members.⁵⁸ He thus defines the body as "an assembly of pro-

fessional politicians spinning out political careers."⁵⁹ Successful pursuit of a career requires continual re-election. Now the way in which Congressional candidates win party nominations is by direct local primary, rather than by caucus or convention. This weakens traditional ties between member and party.⁶⁰ Morris Fiorina, who follows Mayhew pretty closely at times, traces all of these developments back to 1910:

. . . curbs on the arbitrary powers of the national party leadership at the beginning of this century were a natural outgrowth of the increasing professionalization of congressmen. With more and more congressmen wishing to retain their seats for long periods, iron party discipline became intolerable. The individual congressman desired the flexibility to follow the wishes of his district when party-district conflicts arose. Moreover, taking power from the hands of the party leadership and spreading it more widely around the chamber gave individual members a greater opportunity to take actions to enhance their re-election efforts. The seniority system was the natural response to a group of budding career congressmen. Power was distributed more widely to a larger group of standing committee chairmen (there were about 60 standing committees in 1910) who would attain their positions by the automatic workings of the seniority system. Acceptance of the seniority system gave local districts the upper hand over the national parties in the U.S. Congress.⁶¹

That members, acting on their own behalf, are able to improve their chances of winning reelection is supported by the electoral advantages of incumbency.⁶² If they use the advantages which accrue to them through their office, not only can they retain their positions, but they can do so with a statistically-significant margin of safety.⁶³ That they must so use the office as a condition of retaining it is now becoming recognized. Fiorina notes that those who do not seek reelection first over all other goals get weeded out.⁶⁴

For Mayhew, then, congressmen must constantly engage in activities related to reelection.⁶⁵ Among such activities, three are primary, and all of these are directed beyond the legislature. The three activities are: 1] self-advertising; 2] credit-claiming; and 3] position-taking. The meaning of the first should be obvious. One puts one's name before one's constituents as often as possible, preferably in the form of messages which have little or no issue content. The object is simply to become as well-known as possible. Dan Flood, for example, was well known for turning up uninvited at weddings and shaking hands. The family would be grateful; their friends would be impressed. The day would be a success. Everyone would have been immensely cheered by that wonderful Congressman Flood.

The second election related activity, credit claiming, is a bit more complex and more portentous in its implications for Congressional action. Here the representative tries to demonstrate that he has been responsible for getting the government to do something desirable.⁶⁶ The best way to do this is to traffic in particularized benefits, i.e., to secure "goods" that can be distributed among individuals or groups back home in the district.⁶⁷ What counts is that the recipient unit be of such a scale that it can recognize the congressman's efforts and applaud his good works. While some particularized benefits require legislative action, such as the pork barrel, the greater part of them are comprised of casework--thousands of favors performed for individuals who encounter separate difficulties, usually in obtaining government services. To their succor

the valiant representative, or a member of his staff, immediately hastens. Thus the constituency comes to see the representative as a personal contact in government, a cutter of red tape and a supplier of goods--in short, as valuable and valued.⁶⁸ On similar principles were once constructed the wonderful city machines of 19th century American urban politics.

The third reelection activity which continually preoccupies members of Congress is that of position taking. The representative makes clear and striking pronunciamenti on the issues of the day, statements of the form, "I oppose the President on this," or, "I am in favor of an immediate freeze on nuclear weapons." Such statements are fundamentally harmless in that they seldom yield concrete results or require the member to do anything. But they do enable him to sound good, and they play well on the evening news.

Why are such apparently trivial and largely ceremonial or bureaucratic activities so important? First, they are crucial to keeping incumbents incumbent. Second, however, a review of Congressional history makes it clear that while not new, these practices have assumed a much larger role than previous both in the daily life of most members and in making up the member-district relationship. Hence they point to deeper developments within the legislature and perhaps to changes in the meaning and substance of representation itself. Among such important changes in member activity, the following should be noted. First, individual members in some cases wind up acting as principal lobbyists for clientele groups

important to them.⁶⁹ Second, Mayhew points out that members differ in their approaches to particularized benefits. Those from old machine cities with blue collar constituencies tend to devote much time to the distribution of benefits; those from upper-middle-class bases tend to deal in positions.⁷⁰ Third, the satisfaction of electoral needs requires remarkably little zero-sum conflict among members,⁷¹ and this makes it possible for them to collectively act to meet their separate needs. This becomes particularly important when we turn to the politics of congressional spending decisions, as we shall see.⁷²

In general, however, the full implications of the "electoral connexion" do not emerge until the goods-distributing representative is seen in the context of subcommittee government. Fiorina notes that marginals have disappeared, as the new system has developed, because congressmen have found it possible to base their reelection on non-controversial activities--such as their casework and pork procurement--rather than upon other kinds of traditional activities which lead to controversy and tend to divide the district.⁷³ This tends to provide them with a good deal of independence from their fellows, because on such issues as direct constituency service, procedures have been worked out to make compromise and consensus absolutely painless. Further, to the extent that members of Congress are on their own with respect to seeking reelection,⁷⁴ they are also on their own with respect to depending on the national parties to help them secure their seats. This, in turn, leaves them on their own with respect to parties when they take their seats in Congress and find their separate

ways to their far-flung subcommittees. Mayhew notes that the subcommittees themselves are related to the reelection process here described in that they provide small group settings in which individual congressmen can make things happen,⁷⁵ and that the quest for specialization in Congress is, at bottom, a quest for credit.⁷⁶ When we combine all of these factors we get two kinds of disaggregation or decentralization within the chamber, both of which follow the emergence of particularized goods as central to the daily round of activities of members, and both of which historically came after the democratization and reform movements of the 1970s. These are the structural disaggregation of the subcommittee system, and the political disaggregation of a weakened party system.

At the beginning of the 93rd Congress, there were 143 subcommittees in the Senate and 132 in the House. With disaggregation carried to this extreme, the number of members covering subject areas becomes small enough to permit relatively easy credit claiming.⁷⁷

This system, as Mayhew repeatedly asserts, serves the reelection needs of members remarkably well. Each is free of traditional constraints to follow a national party program, and free to take positions that serve his own advantage. Therefore, the key characteristic of the typical contemporary member of Congress is that he pursues self-interested aims in a legislative and political environment that has evolved in support of an ethos of decentralization. The professional literature has begun to designate him the "entrepreneurial member."⁷⁸

The forces fueling the individualistic tone of the present-

day Congress remain strong. As far as elections are concerned, senators and representatives are in business for themselves. . . . they are political entrepreneurs in their states and districts, seizing opportunities, generating resources, responding to pressures, shaping the image that voters react to on election day. . . . While legislative styles differ . . . they are all likely to see themselves first and foremost as individuals, not as members of a party or as part of a president's team.⁷⁹

As we shall see later, the entrepreneurial member sustains his personal power through Washington networks as well.

At first glance, the self-interested entrepreneurial member looks like the participating, educated citizen of a classical democracy or city-state. But there is a crucial difference. The classical assemblies held and used power to jointly carry out collective aims. Members of Congress, collectively carry out individual aims. The earlier legislatures determined the disposition of the polity with respect to common policies and problems; our contemporary Congress excels at the distribution of particular goods. As Peabody notes, "members are relatively free to follow the dictates of their consciences and to pursue the interests of their districts."⁸⁰ If this is all they follow, we are in trouble. The outstanding form of "institutional universalism" now practiced in Congress is neither the pursuit of common aims and goals nor a collective approach to common problems, but takes the form instead that members of Congress protect each other so that all can keep their jobs.⁸¹ Two important consequences follow.

First, in recent years, the rate of retirements from Congress has increased to the point that retirement from Congress now exceeds

electoral defeat as the primary factor in the turnover of seats. Cooper and West's analysis of this phenomenon indicates that even though Congress as a whole succeeds in promoting the re-election chances of its members, the personal returns they get from the job are declining fast. Members individually face higher "costs" and lower "benefits" in struggling to keep their seats.⁸²

For example, upon resigning his senate seat in 1978, Senator James Pearson remarked:

Several factors are pushing in on us today. We have an enormous increase in the amount of business to be done and a great increase in time pressure. And the parochial demands from back home are greater. People today, more than ever before, expect you to come home to your state just about every weekend. . . . If this government ever falls, it won't be from any external pressure. It will be because those people assigned to make judgments never had any time to read or contemplate or think.⁸³

What this means, as Cooper and West see it, is that the incentive system of the House has changed, diminishing the stakes that older members have in acquiring or exercising authority, and that the decline in such authority accelerated precipitously with the 1970s reforms. With the subcommittee dilution of power inside the chamber comes the increase in particularized--and often trivial--demands on members' time from the folks back home. In a sense we can say that the self-interested expectations which so many ordinary citizens have with respect to government are resulting in the selection of similarly inclined individuals to Congress. Those with "higher" aims, who used to make service in the body their vocation, are giving up.

Representative Otis Pike (D-NY) recently remarked:

Being expected to put in a full day's work at the office and a full night's appearance on the banquet circuit can get to be and has come to be a bore. . . . People bug me more than they used to. They are asking their government to do more for them and are willing to do less and less for themselves. . . . So much of the work is nit-picking trivia.⁸⁴

It should come as no surprise, then, that some older members get tired and disgusted and worn down by the service orientation of the job, and quit.⁸⁵ Among those who remain, "particularized legislation," in Mayhew's phrase, becomes the only game in town.

The second problem that arises with the emergence of the entrepreneurial member and the quest for specialization is a matter of what I call the institutional paideia of Congress. This term here refers to the process of socialization to and education in the folkways of a body which has its own culture, traditions and positive role in government. The student of classical politics is dumfounded to find that the members of the national legislature are resigning their seats, not because there are greener pastures elsewhere--as was certainly the case in the nineteenth century--but simply because they do not want to be there anymore. Members of the boule, the signoria, and the Parliament were not widely noted for resigning their seats. Why were those seats attractive, and why was it usually a matter of law, revolution or terminal illness to get someone to relinquish his place there? The answer, in a word, was power, and the fact that "the boys don't want to give it up." What seems to be going on in the contemporary Congress is that the members are being forced by circumstance to give up power in a number of ways; unanticipated ways;

ways which were not forestalled by defeat of the Bolling Committee reform proposals. The old apprenticeship system is gone, the "in order to get along, go along" rule has been repealed,⁸⁶ and the authority of those in senior positions has declined even though it has by no means ended. This factor is crucial to a weakening of institutional cohesion that can hardly lead to anything but a general decline in member loyalty to Congress itself.⁸⁷ Barraged by trivial demands from outside, the individual member becomes an entrepreneur in a body of professional politicians who have little incentive to seek the good of the Congress itself. But, less inclined to keep the institution strong, less bound together by the paideia or system of acculturation which is always necessary to make individuals members of institutions, how can it be expected that modern members mobilize themselves singly and severally to maintain the power of the legislature against the spreading influences of bureaucracy and executive branch? Fiorina notes that

. . . increasingly, the individuals members can achieve their primary goals independently of (and even in opposition to) the ends for which the institution was created.⁸⁸

So where Mayhew and Cover saw a "reversion to the original constitutional design,"⁸⁹ Fiorina sees a perversion of its ultimate aims. Whether the Constitutional design has proved adequate to carry out its aims is not something that we will take up in this place. The point is that whichever of these interpretations seems more plausible, we have a serious problem.

Having looked at the increase of interest in matters which

concern members in their local particularity, we now need to turn to a closer examination of the kinds of legislative action that the Congress normally or typically takes. According to Thomas E. Mann, the rise of the individualistic or entrepreneurial member is a centrifugal force when it comes to legislation.⁹⁰ Here, again, it is important to distinguish between the localized interests of districts and representatives and the possible generalized interests of a national constituency which Congress, in its governing rather than representing function, has a constitutional obligation to carry out. The professional literature indicates that there is a considerable difference in the efficacy with which Congress carries out each kind of responsibility.

Following Mayhew again, we see that members mobilize with elegance and efficiency on particularistic issues. They do more than stage simple referenda on Bills.⁹¹ Instead, they mobilize activity, determine the content of measures and effect the way legislation is implemented.⁹² And when will they mobilize? When motivated by clientele (i.e., interest group) scrutiny.⁹³ Mobilization is, in the final analysis, a matter of having an audience, a matter of public² participation, just as Wilson claimed so long ago. The problem is that the public itself has changed. It is no longer moved, as it once was capable of being moved, by a daily press of important national issues.⁹⁴ And, unfortunately, without a national audience, a national constituency, there is no movement on national issues.⁹⁵ One final comment on the dominance of local over national issues should do it:

. . . members are increasingly de-emphasizing their role as formulators of national policies--a controversial role, after all--and emphasizing their role as ombudsmen who strike fear into the hearts of incompetent or arbitrary bureaucrats.

In turn, citizens increasingly tolerate members' positions on major national policies. What does it matter if one's representative is a conservative or a liberal, Republican or Democrat? One vote of 535 can't make much difference. But as subcommittee chairman or ranking minority member, the representative in Congress has been a whiz at getting water treatment plants and mass transit feasibility studies. Moreover, he or she kept the old coke ovens from being shut down by EPA and tracked down umpteen lost social security and veterans' checks. Why give up the incumbent's seniority and experience just because of disagreements about the MX or national health care?⁹⁶

What Fiorina is describing is a kind of tradeoff between representative and constituency on the daily routines of representing and governing. The public, so it seems, forgives the representative an occasional sin of position taking, an occasional lapse on a major issue, so long as he provides the district and its constituent groups with the services and favors they have come to expect. This amounts to a kind of absurd doctrine of "entitlements" with respect to constituent demands and representative responses. Again, it is the national constituency which goes begging. On measures lacking particularized benefits, intrinsic member interest in the impact of such legislation vanishes.⁹⁷ For Fiorina, what all this adds up to is a change in the fundamental "mix" of Congressional activities.

At this point, the tale begins to grow murky again. I have held that there seem to be two kinds of issue area, and distinguish between them according to their form. First is the particularistic issue or good which can be distributed more or less equally across the

country, district by district--or at least in a number of districts sufficient to secure the support of a majority in Congress. Closely associated with this are the rise of the entrepreneurial member and the bureaucracy which oversees the administration of such goods. Second are goods, sometimes distributive, sometimes not, which concern the nation as a whole. With regard to these generally broad and inclusive problem areas, the professional consensus is that Congress has considerable difficulty acting upon them. Yet our fragmented Congress constantly acts and passes hundreds of major pieces of legislation each year. Indeed, Congress is a hub, a beehive of activity. Twenty-three thousand people work on Capitol Hill. If we take the notion that the pursuit of particular, at the expense of general, aims is the primary motive force in Congress today, we will be able to show that most of the primary characteristics of what Fiorina calls the "Washington system" follow easily. The primary characteristics are: the emergence of a new form of politics within the assembly which we will call coalition politics and which is encroaching upon older forms; the growth of personal and committee staffs and the increasing importance of staff roles in lawmaking; the convergence of particular interests, caucus politics and staff influence on the legislative process in general and upon the budget and spending process in particular, which results in spending patterns that now seem beyond political control; and the spreading bureaucratization of the system, both inside and outside the Congress itself, which defeats reform attempts and is undermining the collegial processes of the

national assembly. Meanwhile, the activities of Congress, as it goes about its daily business, are becoming increasingly ritualized and empty of real political content. If the Congress is no longer--or may soon no longer be--a collegial body, if its members are resigning because they are losing power, and if its deliberations no longer carry real national weight, then we shall have lost it. And Congress was the centerpiece of the Constitutional design.

Caucus Politics Inside Congress: The Predominance
of Particular Over General Interests, Part II

'Nothing renders Congress less capable of action than the need for it,' . . . the fact remains that Congress is a ponderous decisionmaking body, more adept at delaying and diluting legislative proposals than taking clear-cut decisive action. . . . If crises are severe enough, such as those of 1933 and 1941, Congress can act swiftly, but in normal times the legislative process takes time. One reason is, of course, structural: Congress is large and complex. But a more fundamental cause is political. In Congress there are lots of conflicting opinions and objectives to be reconciled, and no underlying base of agreement that allows a congressional majority to govern with parliamentary ease. In the absence of overwhelming consensus . . . conflicts over policy are represented in the Congressional parties, splitting them into blocs and factions that have to be accommodated before Congress can make any decisions at all. Majorities are built in Congress, not elected to it; hence Congressional politics is coalition politics.⁹⁸

These remarks were written in 1973, before the final wave of reforms had transformed the House. Congress has sat in continuous session for 194 years, and there is little even remotely compatible with its basic grant of powers that hasn't been tried there. Almost every development of the past 20 years that could be pointed to as new or emergent can be found in some earlier era if the student is willing

to look hard enough. Yet the professional literature, as reviewed in these pages, expresses the consensus that a "new" Congress has appeared among us. What makes the present body different from its predecessors is what Fiorina called the "mix" of its activities, i.e., the reigning division of powers, the rules according to which it organizes itself and the kind of politics that occupies its membership every day. In this section I want to briefly discuss what is called "coalition politics," a process through which groups of members, organized sometimes formally, sometimes informally, come together in committees and on the floor to draw up and to pass legislation. While Congress has long been renowned for its facility of obstruction, the methods through which it acts positively are more complex and more obscure. Coalition politics is particularly important at this time, not because it is a truly novel development, but because the current context--of weak parties, weakened leadership, the entrepreneurial member and a strong executive--not only provides the background for the emergence of coalition or caucus power, but contributes to the progressive weakening of customary institutions that formerly mastered the legislature and bent it to the conduct of its business. While it would require empirical studies to establish this definitively, I think it could be shown that the portion of legislation either passed directly or strongly influenced by in-House coalitions as opposed to the party leadership, is in a period of marked increase.

We are here concerned with coalitions of two kinds: first, those which have some formal organization, perhaps including a name,

an office and even paid staff members. The congressional memberships of groups of this sort is drawn from one or both parties and these individuals exchange information about impending legislation and act collectively to block or influence it. Such coalitions are usually organized around a single interest or issue. The second kind of coalition may be, but is not necessarily, an outgrowth of the first. It comes into action in cases where members find themselves united in opposition to or support of specific proposals for differing reasons. An example of this second kind of coalition can be found in the ad hoc group that emerged in opposition to the Bolling Committee reforms. Two of the prominent components of this group were the entrenched chairmen of the standing committees, who found themselves under attack, and various scattered individuals who had strong ties to organized labor, itself strongly opposed to Bolling's suggestion that the Education and Labor Committee be separated into two committees. While nothing formal or habitual conjoined committee chairmen to members with ties to labor, in this particular instance they formed an alliance which can only be termed ad hoc and which, nonetheless, succeeded in fulfilling its aims as thoroughly as any solemnly incorporated House institution. The reform movement was diluted.

The activity of coalition building itself is generally understood to take place at the behest of the executive branch, operating in conjunction with the leadership of the majority party in the House. At least, this is the form with which most students of Congress would normally begin. It is the easiest to understand

because the most visible, and our discussion will begin here because we shall see that the difficulties faced by the contemporary leadership in building majority coalitions are complicated by the emergence of these special interest formal and ad hoc coalitions. What I want to show is that the expanding influence of the new coalitions represents the onset of a new form of internal House politics, parallel to the older forms, but having a different basis of electoral and financial power and a different way of bringing its opinions and influence to bear upon the general body. Much of the legislation proposed and passed by the new coalitions is drawn up and supported at the behest of single interests of both the economic and ideological varieties and therefore constitutes, if one is to believe Woodrow Wilson, private business.

First let us look at coalition politics as a consequence of House organization and House rules. As we have already seen, the 1910 revolt against Speaker Cannon produced a decentralized House in which the majority party leadership could no longer command the various organizational units. Both party control and Speaker's prerogatives over committee appointments and the Rules Committee had been considerably weakened. Some students may take the view that these changes made it easier for individual members to vote their consciences and represent their districts; some may emphasize that the problem of building majorities had been redefined. In either case, what mattered now was that, from the standpoint of the leadership, majorities were hence to be solicited instead of commanded. Further, since the

committee chairmen held independent sway over diverse centers of power, the majority party leadership under Speaker Rayburn found itself having to function largely as petitioners of committee support and floor managers of committee legislation:

. . . In sum, by 1940 the role and power of the party leadership in the House had been substantially altered. Though the leadership retained responsibility for and continued to provide overall guidance and direction in the conduct of the House's business, it now had to operate within a far harsher set of constraints than in 1910. At the floor stage, the leadership usually had no choice but to engage in the painful process of assembling shifting majorities behind particular bills through bargaining and maneuver. At the committee stage, the leadership was often forced to engage in intricate and prolonged negotiation with committees and committee chairmen. Indeed, the leadership was now placed in a position where inability to accommodate an organizational unit would mean failure to pass party legislation, unless it was able to organize a majority of such strength and intensity that it could force a vote on the floor through the pressure of opinion in the House or the use of a mechanism such as a discharge. The result was that by 1940 the personal, political skills of the leadership, rather than its sources of institutional power, had become the critical determinant of the fate of party programs.⁹⁹

The painful process of assembling majorities through bargaining and maneuver has been with the leadership ever since. Most of the coalitions in question were based on party and region and all were of what we might call the ad hoc variety, i.e., they had no formal meetings or organizations. But one in particular came into being at this time which was to serve as a model for others that would begin arriving on the scene nearly forty years later. This was the conservative coalition, about which a dense and lush literature has sprung up. Its motives were primarily negative, i.e., to block liberal legislation, and its success over the years has been remarkable. It

too was an ad hoc coalition for the most part, but John Manley reports that old Joe Martin and Howard W. Smith were not above getting together for informal inter-party conferences with respect to certain bills.¹⁰⁰ What interests us here is that an informal association of interests, "Two souls with but a single thought," as one observer put it, could come together without organization and without fanfare and exert enormous negative power over a period now approaching fifty years. In his well known The Congressman: His Work As He Sees It, Charles L. Clapp provided a classic picture of the conservative coalition in operation, using the rules that govern debate in the House to prevent House action. These particular events

occurred in 1950, on February 22. February 22 fell on Calendar Wednesday, and we were bringing up the FEPC bill on that day. The Southerners wanted to avoid that. First there was a quorum call, then a roll call on dispensing with the reading of the Journal. After that came the reading of Washington's Farewell Address. When that was concluded, Gene Cox of Georgia rose and said, "out of reverence to the memory of George Washington I suggest we adjourn. I move we adjourn." Then there was a roll call on the motion to adjourn. After that came the question of taking up Calendar Wednesday, and there was a roll call on that. It was 11 in the evening before we began consideration of the bill.

We had to exert every effort to keep members on the floor. The opposition was watching all the time. Every time there was a quorum call, a group of the Republicans would leave the floor. John Bell Williams of Mississippi walked through the aisles on the Democratic side saying, "there is a cotton caucus in the cloakroom," and many Southerners would walk off the floor leaving a quorum absent. Finally, at 11 p.m. Speaker Rayburn over-ruled a point of order that no quorum was present on the grounds that it was dilatory; a similar point of order had been made just a few minutes before. Then we began consideration of the bill and passed it at 4 in the morning. In that situation one rule had been brought up after another which resulted in a form of filibuster in the House. The rules can be used in that way.¹⁰¹

By virtue of its longevity and success, the conservative coalition has become what can only be called an informal but "permanent" potential obstacle to liberal legislation, and while its effectiveness is subject to fluctuations of electoral strength and vocal intensity, every winter of dormancy has been followed by a hyperactive spring of negative access. The impulses it impedes generally come from the leadership which, even in its reduced role as bargainer and solicitor, continues to hold ultimate responsibility for transforming the anarchically inclined House into an agent. Combined with executive branch influence, the majority party leadership has usually borne the brunt of the struggle of getting the House to carry the ball, and we will begin our examination of the contemporary coalitions with Barbara Sinclair's work on the problem of attaining consensus as it is faced by the leadership.¹⁰² What she finds is that the internal changes of the 1970s have vastly complicated and even changed the conditions which confront the leadership, and that the problem of attaining consensus is more difficult than it was in Rayburn's time.

Sinclair divides the Congressional agenda into "issue areas," following the scheme laid out by Aage Calusen in his How Congressmen Decide.¹⁰³ She then tests to see whether Congressional votes on questions in a given area reveal consistent voting alignments of individuals, by assigning each member a numerical "support score" determined by the number of times he or she voted liberal on a given issue such as social welfare. A support score for a group, say House Democrats or Northeastern Republicans, is the average of its members'

scores,¹⁰⁴ and allows Sinclair to determine whether the composition of voting alignment groups has changed, or whether it is possible to find movement in the substantive positions of determinate groups.

What does she find? On questions of government management of the economy, Republicans and Democrats both began to split along regional lines during the 1960s, and these splits deepened into the 1970s.¹⁰⁵ Regional splits within the parties also appear during this same period with regard to the other major areas she singles out, i.e., social welfare and civil liberties. (Questions of foreign policy are more confused, because the reactions of the various voting blocs to questions of this sort depended to a considerable degree upon which party held the White House at a given moment.)¹⁰⁶ In one of her notes, however, she makes an important distinction:

. . . Democrats from all regions seem to be more willing to follow party lines on those issues, especially broad economic ones, considered by the congressional leadership and the president to be crucial to the party program, so long as their constituency interests are not fundamentally compromised. Unfortunately, for the president and the leadership, the latter condition excluded many of the most crucial issues such as energy.¹⁰⁷

The energy issue, as it arose in the 1970s, is cited so often in the literature that it is paradigmatic of what is being systematically neglected by Congress. It is neglected because it is a broad issue, a general issue. It is true that the establishment of a rational and coherent energy policy would benefit the general order of society. It is also true that no matter what its method of treatment, there would be powerful interests that would find themselves adversely

affected. It is precisely such interests which are able to exert leverage upon the members, undermining party programs either by giving rise to ad hoc coalitions, or single interest coalitions, either of which is capable of preventing positive action by the general body.

Sinclair's analysis shows us a House changing rapidly during the 1970s. Member coalitions have found new bases for common action in response to changes that began to take place in the national political agenda, 1969-1976.¹⁰⁸ Sinclair has shown that when the general public strongly urges changes in the national agenda, Congress usually responds with realignments of House voting blocs on questions of policy legislation.¹⁰⁹ Here, what seems to have happened is that several broadly based sentiments for policy change impinged upon the Congress simultaneously from different constituencies in different regional areas. Congress, always responsive to particularistic constituency pressures, shifted its internal composition accordingly. But the result was no new set of potential majority alignments with regard to the new agenda. Instead, the problems of majority formation on the broad general questions became even more difficult.

Now the reputation of the House Democratic leadership rests, in part, on its success in gaining passage of presidential priorities.¹¹⁰ This task was made more difficult by the entry of entrepreneurial members who, while not a subject of Sinclair's analysis, arrived upon the scene and declined to vote in fixed or predictable patterns--making it necessary for the leadership to solicit their support again and again.¹¹¹ In common parlance, this means that

the leadership had to expend scarce political capital every time it wanted to win a vote. But, as with any banking or financial system, its supplies of capital are neither infinite nor infinitely renewable. Sinclair also finds that the percentage of those who are consistently supportive of the leadership increases as their seniority increases.¹¹² Clearly, then, party loyalty is positively correlated with increased personal power in the chamber and an increased stake in the efficacy of its operations as a legislature. Given what we have already seen of the shift in power away from the most senior members and its decentralization throughout the subcommittee system, it should come as no surprise to find that the leadership confronted an increasingly unpredictable and intractable party membership after 1969. The result was that

coalitions were quite fluid; few Democrats were highly reliable across all issue areas; few could be written off. As a result, coalition building was more complex. The number of members the leadership had to contact and persuade had grown. Gauging the probability of winning was more difficult, and so was deciding how to spend scarce time and resources. The frequency with which the House leadership lost votes which it subsequently turned around is indicative. The list for 1979 includes the debt limit increase bill, an amendment cutting the State Department's authorization by 19 percent, a "killer" amendment to the stand-by gas rationing bill, the second Budget Resolution, an amendment immediately terminating oil price controls, and the Panama Canal Treaty implementation bill conference report. In each case, the leadership's position prevailed on the second attempt--clear proof that a winning coalition could be fashioned. That a skillful and active leadership lost the first time shows how difficult it is to gauge what, and how much, needs to be done to win.¹¹³

As we saw earlier, the problem of majority formation has been further compounded by rules changes: by the decentralization of House

power; by new member impatience with the old norms of apprenticeship; and by the rush of new members to participate fully at the committee and floor stage as soon as they began their terms. Note that these changes have also resulted in a severe decline in inter-committee reciprocity, undermining one of the most secure means the House has developed for facilitating the formation and passage of legislation:

The premise that one should "go with the committee" no longer held. Consequently, the number of amendments offered on the floor rose astronomically. During the 87th Congress, 240 recorded votes were taken; during the 95th, 1,540.¹¹⁴

What we are seeing is a legislature verging on chaos. But more is to come. These amendments aren't harmless. They are used to rewrite legislation and can utterly transform a bill. Sinclair points out that the leadership, unable to predict voting outcomes and in constant danger of getting "ambushed on the floor"¹¹⁵ has been losing not only its ability to elicit or even to force consensus, but also its ability to exert some kind of quality control over legislation itself. The implication is clear: insofar as committee specialization and expertise are needed to draft workable and reasonable law for a highly complex society, the benefits conferred by the committee system and its members' long years of specialized service can be swept away in an instant by a wave of ill-considered amendments, urged on by the inexperienced and the uninformed.¹¹⁶ While this is not the most "democratic" of possible interpretations of recent developments, and tends to lay the question of "representation" aside, the complex subject matters with which the contemporary Congress concerns itself make

the question of the relationship between the committee structure and legislative competence one that should not be begged.

Sinclair finds, with Mayhew and Fiorina, that the "re-election constituency" is a crucial influence upon members' voting patterns. These are the "people who have supported the member with their votes in past elections."¹¹⁷ From the standpoint of coalition formation, however, all is again not well. The reelection constituency is increasingly heterogeneous, the number of "hot issues" like energy, is on the increase, and national politics is becoming "more intense."¹¹⁸ As we saw earlier, controversial broad questions tend both to arouse the special interests and divide the electorate, and the member who takes evasive action when such issues come up is simply trying to minimize the damage he can do to himself by speaking clearly. At the same time, those who succeed in tacking special interest amendments onto more general bills protect themselves by enhancing their "credit" with important parts of the home constituency. But tensions abound. Sinclair notes that there may be disagreement between a member's "supportive elite" back home and the re-election constituency in general. This can cause the member considerable discomfort at election time, and provide ammunition to his opponents should they be able to alienate important segments of the constituency with quotations from his record. The House leadership generally tries to persuade members to vote their own views, since these usually are close to both those of the leadership and of the supportive elite. A member will usually comply when he can do so without giving rise to harmful and

raucus publicity, but since the national parties and the president have little influence upon members' re-election chances, their blandishments can affect House voting patterns only marginally.¹¹⁹ These are some of the factors which now contribute to the growing tendency of members to rewrite bills on the floor, and add to the growing power of formal and informal caucus groups to act independently of central party direction.

That bills are now easily rewritten, after the committees have done with them and despite the efforts of the floor managers and tacticians to restrict debate and amendments, is another key to understanding the contemporary Congress. The entrepreneurial member has arrived; he tends to join ad hoc coalitions easily, and majority coalitions sponsored by the leadership reluctantly. He always keeps an eye out for the clientele and constituency groups who have supplanted the national parties in providing him reelection security. The circumvention of party and leadership interests, more often than not results in floor dilution of broad legislation as the various members strive to protect the special interests that are close to their hearts or their pocketbooks.¹²⁰ Hence, the end product, again, is more likely to satisfy local and electoral rather than national needs. While House party alignments continue to be very important, and regional blocs seem to be growing in importance, the role of the ad hoc or special interest coalition, and the kinds of politics to which it gives rise, must now be factored into any general review or analysis of internal House politics. Such coalitions are rapidly becoming

one of the crucial elements that determine which items on the political agenda will be treated as "national" and which of these, in turn, will become policy. They are also unexcelled at picking apart certain kinds of broad legislation and sending them down to defeat.

Therefore, Sinclair's work, which seems cautious enough in its initial emphasis on the problem of coalition building faced by the leadership, exposes a host of problems which are new to the twentieth century House.

These developments point toward deeper changes in certain underlying aspects of the political philosophies of House members, as well as changes in their attitudes toward practical politics. The following quotation sums up some of the contrasts between the House as it was at the time of the Cannon revolt, and its present-day internal politics:

In an age when party regularity is far from an overriding consideration, it is difficult to appreciate how important party was in the House at the turn of the century. In this period the great majority of members in both parties subscribed to the doctrines of party government. Representative government was seen to depend on the existence of a responsible majority which had the power to rule and which, as a result, could be held accountable for performance. Only under such conditions, it was believed, could the people effect their wishes. The individual representative was thought to be elected on the basis of a party's platform and was therefore regarded to have an obligation to support party positions, even against personal convictions or desires.¹²¹

It should be obvious, then, that a coalition or caucus is one kind of organization and a party is another.¹²² Parties can be seen as broad based alliances of a wide variety of interests, which band together in order to gain power and use it to satisfy the diverse aims

of their constituencies. Party programs thus tend to encompass a somewhat broad ideological range and, when formalized, reflect the processes of bargaining and compromise and tradeoff activity through which a statement of an intended distribution of goods is collectively determined. The promise of such a distribution encourages the members to act together for the program as a whole. Party organizations persist over time because they begin by establishing general agreement on a program and then try to enact it piece by piece. If all are to benefit, each must support most of the program--at least in those areas where negative constituency pressure is not overwhelming. A "coalition," on the other hand, is a diversity of individuals who come together for the purpose of furthering a relatively narrow range of interests, or even a single interest, and who act together with respect to that interest alone. Coalitions are not generally held together by wide-ranging programs or platforms and indeed, it is often the case that those who comprise them act together with respect to the single thing in question, allies at one moment and enemies the next.

. . . Although two of the earliest groups (the Democratic Study Group and the Wednesday Group) were partisan and oriented toward broad approaches to policy and congressional activity, the more recently established caucuses tend to be bipartisan and interested in specific issues. Such a trend does not imply that single-issue politics has come to dominate these groups or the Congress as a whole, but it does mean that most caucuses have organized around sets of issues . . . or a particular point of view that affects a wide range of issues (for example, the regional "lens" of the New England Caucus).¹²³

We have seen that each member pays attention primarily to his district, and to the specific requests and demands of clientele groups

which originate there. Hence it is possible to see the Congress replicate this pattern as members whose districts resemble one another find common ground for legislative action. Mayhew calls this Congressional activity the servicing of the organized, and notes that it is those segments of the electorate that are well organized for political action which succeed in deriving benefits from this system, as opposed to those individuals who (simply) have intensely held preferences.¹²⁴ Some clientele caucuses represent nationally organized groups which happen to have electoral clout in many districts, such as, for example, the National Rifle Association. These "target" representatives one by one. Others keep tabs on the Congress as a whole, rather than on individual members, and exert pressure on behalf of their interests at appropriate moments of subcommittee and full committee deliberations. This tends to be the method preferred by agricultural interests such as the Tobacco Lobby. A straightforward analysis of organized interest activity is complicated by the diversity of such clients and by the number of stages in the legislative process at which they might assert themselves.

In general, however, we can sum up the current state of majority coalition building this way. Cooper and Brady hold that the degree of cohesiveness of party votes is positively correlated with the concentration of power in the leadership.¹²⁵ As party cohesiveness has declined, Congressional government has become coalition government.¹²⁶ This means that Congressional politics has shifted from a hierarchical pattern to a bargaining pattern, and that the pro-

cess of building majorities has become a constant search for coalitions.¹²⁷ While coalition activity to block legislation is relatively easy to orchestrate, the problem of positive action daunts liberal groups, which find that they must formally organize if they are to have any success at all.¹²⁸

In what follows, I am going to lump together the two different kinds of coalition activity, that which marshalls forces in order to pass specific programs or kinds of legislation, and that which coalesces on the floor to reject or amend bills which have emerged from the committee system. I realize that these are analytically separable, but what is most crucial here is to explore the problem of positive action and the dominance of special over general interests.

While Sinclair studies the problem of consensus building as faced by the leadership, Burdette Loomis directs her attention to the caucus groups which have sprung up among House members themselves. She has provided a study of forty recently organized formal and informal House groups.¹²⁹ What this study shows is that when the leadership confronts the general body, it faces a legislature already organized into coalitions which tend to oppose entire bills whenever such bills contain provisions inimicable to the interests they represent. Each of the groups included in Loomis's study can be characterized by its focus upon a narrow range of issues. According to Loomis, the Democratic Study Group was the first of these to emerge in 1958. During the 1960s, two more were formed, then the Black Caucus in 1971, nine more by 1975, and more than 20 additional since

1976.¹³⁰

For Loomis, the emergence of such groups is no epiphenomenon. She provides what might be called the standard account: they arose out of changes in constituency pressure and widespread member impatience with national party agendas. She studies these formations because they provide a focal point for us to see changes in the relationships among members and changes in the institution of Congress.

Prior to 1958, then, the institutions of Congress did not provide for or include organized subgroups outside those institutionalized by the party/committee structure.¹³¹ The political frustrations of members during the 1960s and the reforms of the 1970s changed these conditions as we have seen, but Loomis holds that the caucus, as a general form of organization, is a function of member pursuit of self-interest and the search for alliances which can protect such interests.

Loomis presents a profile of four different caucuses or groups which are "similar in their representation of identifiable interests."¹³² They are: The Congressional Black Caucus; the Northeast-Midwest Congressional Coalition; the New Members' Caucus; and the House Steel Caucus.¹³³ While there are obvious differences between them, they are, with the exception of the New Members' Caucus, concerned with capturing government largesse for important clientele or constituency groups. Hence they act on the basis of distributive theories of justice and seek primarily economic goods. Loomis presents a Table in which the names of the forty groups are listed and

some of their most important characteristics arrayed. I am including that Table here instead of a more exhaustive summary of her study.¹³⁴

The groups span the ideological spectrum and the economic hierarchy, and some of them are famous or notorious, depending on one's point of view. Some are organized with specifically economic aims in mind; others have social agendas. Few are concerned with a national constituency, and none has been organized with the intent to promote the vitality of national institutions. In aggregate, they represent an impressive array of special interests, each of which, by virtue of having organized itself, is now in a greatly enhanced position to feather its nest. This last is furthered in those cases where a given group has been designated a "Legislative Support Agency" which means that Congress has generally decided that it is a useful and important source of information with respect to its area of concern.

While it may appear that these groups present us with a theoretical problem by representing a heterogeneity of interests in a public space, I believe that such is not the case, and that the best that can be said of them is that they add a layer of unelected representation to government, a layer that falls between the local district and the national assembly. The distinction between the contemporary organization of special interests in Congress and the representation of diverse interests in the classical assembly lies in what might be called the "one-pointedness" of the modern enterprises, the almost technical singularity of purposes and types seeking to promote themselves. It is important to note that coalitions of convenience fly no

TABLE 1
 "NONOFFICIAL" GROUPS IN THE CONGRESS
 AS OF JANUARY 1979

	Bicam- eral?	Member- ship ¹	Issue Focus ²	Group Bond ³	Paid Staff?	Funding Sources ⁴	Qualified as Legisla- tive Support Agency ⁵
House Partisan Groups							
<i>Democrats</i>							
Democratic Study Group	No	Vol.	B	Ideol.	20	O,D,S,C.	Yes
Democratic Research Organization	No	Vol.	B	Ideol.	3	D,C	Yes
United Democrats of Congress	No	Vol.	B	Mixed	No	—	Yes
94th Caucus	No	Inclus.	B	Class	1	C	Yes
Congressional Hispanic Caucus	No	Inclus.	B	Demog	3	O	Yes
95th Caucus	No	Inclus.	B	Class	1	C	Yes
<i>Republicans</i>							
Wednesday Group	No	Vol.	B	Ideol.	3	C	Yes
Republican Study Committee	No	Vol.	B	Ideol.	15	C,D,S	No
95th Republican Club	No	Inclus.	B	Class	No	—	No
96th Republicans	No	Inclus.	B	Class	No	—	No
Bipartisan Groups							
Congressional Black Caucus	No	Inclus.	F	Demog.	7	O,C	Yes
New England Congressional Caucus	No	Inclus.	F	Region	3	O,C	Yes
Northeast-Midwest Congres- sional Coalition	Yes*	Inclus.	F	Region	8	O,C	Yes
Congressional Rural Caucus	No	Vol.	F	Issue Set	2	O,C	Yes
Blue Collar Caucus	No	Vol.	F	Occup'n.	No	—	No
Congresswomen's Caucus	No	Inclus.	F	Demog.	1	C	Yes
House Congressional Steel Caucus	Yes*	Vol.	S	Issue	No	—	Yes
Ad Hoc Congressional Commit- tee for Irish Affairs	No	Vol.	S	Issue	No	—	No
Congressional Suburban Caucus	No	Vol.	F	Geog.	No	D	Yes
Textile Caucus	No	Vol.	S	Issue	1	C,D	Yes
Conference of Great Lakes Congressmen	No	Inclus.	F	Geog.	No	—	No
Congressional Ad Hoc Monitor- ing Group on South Africa	No	Vol.	S	Issue	No	—	No
Metropolitan Area Caucus	No	Inclus.	F	Geog.	No	—	No
House Ocean Policy Advisory Committee	No	Vol.	F	Issue Set	No	—	No
House Fair Employment Practices Committee	No	N.A.	F	Issue Set	No	—	Yes
Congressional Port Caucus	No	Vol.	S	Issue	1	C	No
Congressional Shipbuilding Coalition	No	Vol.	S	Issue	No	—	No
Members of Congress for Peace Through Law	Yes	Vol.	F	Issue Set	7	O,C,D	Yes
Coalition for Peace Through Strength	Yes	Vol.	F	Issue Set	Yes†	O	No
Environmental Study Conference	Yes	Vol.	F	Issue Set	9	C,D	Yes
Congressional Clearinghouse on the Future	Yes	Vol.	B	Issue Set	3	C	Yes
Solar Coalition	Yes	Vol.	F	Issue Set	Yes†	O	No
High Altitude Coalition	Yes	Vol.	F	Issue Set/ Geog.	No	—	No
Congressional Clearinghouse on Women's Rights	Yes	Vol.	F	Issue Set	1	C	No
Forum on Regulation	Yes	Vol.	F	Issue Set	No	—	No
Vietnam Era Veterans in Congress	Yes	Inclus	F	Issue Set	No	—	No

† Allied with outside groups that provide staff.

* Separate counterpart groups exist in Senate

¹ Voluntary membership = elective, by any member; inclusive membership = all members included of a given category

² B = Broad; F = Focused; S = Single-Issue

³ The group bond can be a variety of different factors: ideology, demography, geographical feature or region, a single issue, a set of issues, occupation, congressional class.

⁴ C = Clerk-hire, D = Dues, S = Subscriptions; O = Outside

⁵ House Administration Committee designation as legislative support group (96th Congress, 1979)

regular party flag. These economic and social interests do not strive to promote the general welfare so much as they try to precipitate changes in existing practices which will be of direct benefit to themselves. Hence it is not unusual for certain industry groups to press for the imposition of import tariffs and quotas in selected areas, without giving thought to the national balance of payments or overall export trade. Similarly, other groups come forward to press their particular moral or ethnic concerns, seeking legislative authorization for programs which have not surfaced as part of a national agenda realignment and which would be costly to administer. If such special interests are seen in this way, then it becomes possible to tar both those of the Left and those of the Right with the same brush, and perhaps show that with respect to neglecting the viability of Congress as an institution with a national constituency, they have more in common than first appears.

It has already been stated that these organizations have a palpable and growing effect on legislation. The positive participation of their membership is often a necessary condition for the formation of many majorities, and the legislative activity of those members who have enrolled in their lists can be highly effective. Very often it turns out that, with respect to the act of legislating, what they do not alter by amending, they block by opposing. The balance of their activities may indeed be to promote and strengthen those interests in whose name they have come into being, but these same activities also serve to weaken the only institution in which a

blending and balancing of diverse interests can take place openly and politically.

This is no simple matter on the level of theory. Regional blocs and affinity groups go back to the founding of the republic as Young's analysis showed. The parties themselves have long stood for programs which have often been drawn up to change perceived imbalances in social and economic power throughout American society. In the one case, as Young showed, the blocs which emerged in the Federalist period evinced a lack of statesmanship and led to a paralysis in Congress that ended only with Jackson's election in 1828--a development that did nothing to strengthen the institutional position of Congress. In the case of parties, the history of their successes has usually hinged on converting a substantial portion of the electorate to their views. Perhaps Congress is the proper place for a minority to attempt to build a national constituency for its programs; perhaps there is no other available forum. But these new groups are different. They are more than affinity groups and less than parties. Many are not concerned with even so broad a range of affairs as are embraced by regional interests. Instead, they have narrow foci and very often are in no position to persuade a national majority to follow them. This goes to the heart of the matters now beleaguering Congress: what sorts of issues should be raised there? In my view, only those which can be shown to belong on the national agenda.

Therefore, Loomis's work echoes what is becoming a general theme in these pages. She finds that the growing power of special

interests interferes with Congress's ability to discover and serve a general one:

The consequences of such organizing . . . are to formalize more fully the already strong representational tendencies of the Congress and to weaken further the ability of the legislative branch to act responsively toward society-wide problems that affect substantial numbers of particular interests.¹³⁵

Dodd and Oppenheimer link these developments not only to the constituency pressures with which we were concerned in the last section, but to the subcommittee system itself. Their analysis shows that changes in the formal institutionalization of the House, i.e., the rise of subcommittee government, have led to the appearance of other institutions, not expected, and that one apparent consequence is that the quality and frequency of dialogue between those who disagree has diminished rather than increased:

As power has shifted from committees to subcommittees, committee decisionmaking has moved to work groups with far more homogeneous environments. In other words, when one cuts a committee jurisdiction into a variety of segments and gives each subcommittee one segment to review, that segment will include within it a fewer number of policy concerns. Cutting a committee's jurisdiction into small pieces and placing real responsibility for decisions in the discrete subcommittees encourages particularized single-interest groups to disengage from umbrella lobby groups (that is, lobby groups that aggregate numerous interests in a policy domain into one lobby effort) and expend concentrated effort on the particular subcommittee determining the fate of their particularized interest. Concerned with only a few policy interests, these subcommittees are apt to become the captives of these clientele groups.

The move to subcommittee government thus has fueled the rise of single-interest groups in Congress and augmented the power of particularized lobby groups, increasing the probability of clientele dominance of congressional policymaking.¹³⁶

So goes the rise of particular over general interests at the level of the subcommittee. Brady and Bullock go considerably farther than this. They focus not on the subcommittee but on the floor, and they discover that the fragmentation of Congress and the rising of the special interests has national implications:

The decline of party strength in the House has contributed greatly to the formation of caucuses and groupings in the House that further complicate the ability of the majority to govern. Observers have pointed to the recent emergence of frost belt/sun belt voting alliances, and Kevin Phillips writes of the Balkanization of America.¹³⁷

It is early to begin writing seriously of Balkanization in my view, but not too early to see that as the variety of particular demands multiplies, and as the effectiveness of the new organizations serving them increases, the ability of the Congress as an institution that serves electoral requirements of any sort is placed under increasing strain. Consensus is a necessary condition of Congressional agency, and the aggregation of special interests into omnibus bills is but one of several possible kinds of legislative act. The hard, synthetic, integrative, broad and general questions are going begging because they are controversial. The new caucus and special interest groups multiply the number of controversial attributes of certain questions in proportion to their strengths in the chamber. Now if we define the national agenda in terms of those issues Congress actually votes upon, then it is clear that the special groups play a role in setting that agenda for which they have received no electoral mandate. And they need not go to the floor to do so: it is possible,

working through the subcommittee system, to craft one's special aims into the complex legislation which is the handiwork of these small institutions of Congress. In terms of the problem of positive action, then, when the subcommittee system works at all--an eventuality that is becoming increasingly problematic--it works best to serve the specialized interests who are well-acquainted with its back alleys and by-ways.

Nor is this all. If controversy is increasing at the committee level and on the floor, and special interest influence is on the increase through House institutions, it is also rising rapidly about the individual member from outside the chamber. The waves lap and tug at him as he goes about his rounds in the district. They toss up liabilities of an unprecedented sort in the form of an electorate which, in its several parts, absolutely will not forgive his taking the "wrong" stance on whatever question is dear to their hearts:

Culver recently gave a speech to the Wisconsin Democratic Convention on single-issue politics, in which he said, "Strident and self-righteous groups of voters are proliferating in number and narrowing in focus." He said that in the past politicians could count on the support of groups not each of which would agree with them every time, and "being 'right' on most of the issues most of the time was more than enough." Now, he went on, "for each narrow, self-defined lobby . . . the worth of every public servant is measured by a single litmus test of ideological purity. Taken together, the tests are virtually impossible for any office-holder who hopes to keep both his conscience and his constituency."¹³⁸

If the member can tear himself away from the embrace of such groups back home--as indeed, he must if he is to function as a representative of a district--and return to the Hill, he finds himself

plunged into a Washington community no less riven by controversy. The questions at issue seem to be zero-sum. They seem to be questions upon which one is able to vote only "yes" or "no"--or at least this is the form in which they are cast. If constituency pressure is one of the ultimate sources of these developments, then that pressure is sweeping the Congress along towards an agenda of problems for which the customary legislative methods of bargaining and tradeoffs are inappropriate. It is impossible, for example, to draft a bill mandating the partial construction of nuclear power installations in a given area, or, perhaps, a bill mandating the construction of small ones, in an effort to appease both those who would end the national dependence on fossil fuels and those resolutely opposed to nuclear power. Unfortunately, for the average member, the lines of battle have been drawn well in advance, and the notion that the entire House might take on the fundamental question de novo does not seem to arise. The interim is filled with a kind of mutual aversion with respect to such issues that dries up the kind of communication and dialogue which, on or off the floor, only the Congress can provide even in theory. Congressman David R. Obey (D-Wis) had this to say about it:

"Yes, government is getting bigger, but what's eating this place alive is the growth of one-issue groups--pro and anti-abortion, pro and anti-B-1 bomber, pro and anti-nuclear power. Neither side wants to listen to the other. Consensus can't be achieved. You take that kind of pressure, add the fact that one-half of the people in the Congress were elected in the last five years, plus the fact that the party system is collapsing, and you see the fragmentation and frustration. . . . Moses couldn't lead the country today."¹³⁹

It would be quite reasonable for anyone at this point to say

that the foregoing analysis simply indicates that the nature of the pluralistic groups with effective access to Congress is changing, that a different kind of social and technological order presses upon our antiquated institutions with all the force of historical change, and that the responsiveness of Congress, the advent of the relative anarchy we see there now is a positive thing. Congress is alive and well. It "represents" the tensions and conflicts of the various active and organized political and social forces extremely well. Indeed, with remarkable sensitivity.

To this there are two responses. First, the Congress exists not only to bring controversy into the public space and air it, but to deliberate about it collectively and to resolve it as succinctly as possible, so that the government and the polity can move forward. Congress must act; it must decide. Its specific function is to meld alternative arguments and positions into decisions that will apply to all collectively, and not simply to each severally. In order to accomplish these things, members who do not agree with each other must be encouraged to talk with one another and to work together. Indeed, this was one of the most important aspects of House service until fairly recently.¹⁴⁰ Second, in the absence of a Congressional court of ultimate resolution of conflict, the political questions do not ebb, and the wheels of government continue to turn.

It is no longer an open question, however, whether it be Congress which does the turning. Most professional students, at least as far back as Huntington, agree that the responsibility for taking

the initiative on broad questions has fallen to the presidency. This can now be traced to the three decentralizing forces we have just reviewed: the subcommittee system, the entrepreneurial member and the ad hoc and special interest coalitions in Congress. To the extent that these forces complicate the consensus building task of the leadership, they contribute to Congressional inaction. To the extent that Congress fails to respond to urgent general questions, the presidency moves to fill the void, either through requesting additional powers from a compliant, because confused, Congress, or through thousands of insignificant extensions of its prerogatives via the numberless agencies of the executive branch. The result is an evolution in our political institutions which is moving forward apace, an evolution which neither we ourselves as citizens nor our representatives in Congress have had opportunity to debate and to decide.

To sum up, then, the important consequences of the present Congressional system are: (1) that "public policy emerges from the system almost as an afterthought;"¹⁴¹ (2) that new sources of obstructionism and inaction have emerged in the House and Senate alike;¹⁴² (3) that therefore the powers of Congress are "largely negative";¹⁴³ and (4) that the present forces are pretty firmly in place:

Those threatened by the elimination of an agency or program fight harder than those with a generalized interest in efficiency or cost-cutting.¹⁴⁴

In a sense, then, the pluralism which was once so widely hailed as a strength of our Federal system may be on the verge of

devouring it. All those hungry mouths. All those eager, grasping hands. At best, the non-partisan special groups represent a wily, acquisitive people for whom government has become an infinite store of easily obtained goods, and they flock to it, like the ladies at the bargain counter in Filenes, elbowing and pushing and shoving to get to the front. "Every person for itself?" Roger Davidson, in more restrained terms, describes the present system thus:

These Capitol Hill groups, needless to say, mirror the present state of interest articulation and aggregation in the political system at large. That is to say, policy concerns are effectively articulated by a multiplicity of groups, but little aggregation takes place. Few developments have been more repeatedly announced, in fact, than the long-term decline of the traditional political parties and the expansion of interest groups. To the traditional producer-oriented federations--labor, professional, business, and agricultural--have been added a plethora of groups, some with quite specific concerns (the famous "single-interest groups"), some with an ideological cast. Lobbyists represent such diverse interests as individual business firms, cities, counties, states, beneficiaries of hundreds of government programs, antiabortionists, born-again Christians, nuclear power advocates and opponents, and all sorts of consumer and environmental interests. It is not the narrowness of these groups that is novel, but rather their number and range, and their unwillingness to accept brokerage by political parties. Faced with such a confusion of voices, it is little wonder that legislators seek not one party label but many, shaping their images in terms of their factional allegiances. In turn, these groupings provide multiple access to information and voting cues, permitting members to participate, however superficially, in floor decisions that once would have been controlled by party leaders or committee experts.¹⁴⁵

We can decry and condemn these developments, if we will, for what they cost us in terms of government action in a common interest. But they are also costing us something in terms of power. If government is being increasingly influenced by single-interests, it may be

that its power over the general order is being extended in the name of such interests. In other words, were it possible to cut back special interest influence, it might be possible to cut back the power and size of the central government. This at least is one implication that can be drawn from the work of Donald Morgan, who took a somber view of our future more than fifteen years ago:

The conditions which formed the matrix of constitutional government in the West are vanishing. In Britain and even more in the United States, effectively restrained governments took form in societies characterized by geographical isolation, local and personal self-sufficiency and independence, absence of a large professional military, and a leisurely pace of life. These are gone.

The forces which have wiped them out are concentrating political power at a pace hard to exaggerate. . . . Should the nation consign the entire maintenance of the constitutional order to a tiny segment of citizens, a segment many of whose members devote their attention to specialized branches of the field and find private business consuming their whole time and energy?¹⁴⁶

The Bureaucratization of the System: Structural Enclosure of the Public Space

Power may change in terms of its distribution to political actors, or in terms of the institutions which form and order it and which, in a sense, stipulate the actual conditions sufficient for holding and using it. We seem to be living through a period of rather rapid evolution and change in both the powers of certain key positions within, as well as in the relationships while hold among the institutions of the U.S. government. Some of these changes are more difficult to perceive than others, those between individuals positioned in personal networks being, perhaps, the most difficult. In this sec-

tion I want to explore briefly the increasingly bureaucratic nature of the entire U.S. government in order to show that this development is gradually bureaucratizing the once-collegial Congress. In order to do this, I will need to briefly describe both formal and informal changes in our existing arrangements. On the formal side, we have already examined the birth of the subcommittee system and the fragmentation of House power which followed. Rather than examine such internal Congressional problems as coalition building, however, the point here will be to concentrate more fully on the daily lawmaking and legislating activities of individual members of Congress as they serve on subcommittees. We have mentioned the emergence of subgovernments in passing. Now we will also turn to the activities entailed by the close relations that hold between subcommittees, agencies of the executive branch, and the special interest groups whose effects on Congressional voting and bill amending habits we saw in the last section. In other words, here come the iron triangles. Providing a bridge between such formal, i.e., legally constituted by Congress, and informal aspects of our changing institutions, is the Congressional Staff. This organ of government, which some have called "the third House of Congress" was encouraged to grow by the Legislative Reorganization Acts of 1946 and 1970, and now appears in the service of individual members, subcommittees, full committees, select committees, conference committees, House caucuses and even special task forces. It has also begun to show up in the professional literature where it is taking on the dimensions of a problem. The staff exercise

a variety of functions, some useful, some not, and affect legislation, floor activity, and the reach of Congress throughout government and society. Our task will be to see whether the large staffs of the present day serve to augment or diminish the powers of the Congress that they were instituted to strengthen against the spreading powers of the imperial presidency.¹⁴⁷ Our basic question: does the staff, in general, free the Congress to perform its legislative functions, or is it enmeshing it so thoroughly with the rest of a complex government that it is changing the very nature of Congress as an organization at the expense of its powers as a general interest body? We will answer this question largely on the basis of information gathered on the informal side of change: from personal power networks, information networks, issue networks, the growth in information that staffs can make available to members, and the daily round of ritual participation in staged "events" which members follow every day. Changes of this latter sort are called "informal" here because they were not specifically legislated by Congress but have simply followed, almost by accident, from the formally-mandated "reform" legislation passed by the legislature at various periods.¹⁴⁸

There are two phenomena that it is necessary to clarify at the outset. First is the contrast in both form and efficiency, between collegial and bureaucratic modes of organization. Second is the dynamic relationship that connects the Congress with those executive branch agencies which were given birth in legislation. Congress creates, say, an executive agency and later that agency returns to act

tion and the quality of the ends produced by collegial as opposed to bureaucratic organizations:

Work organized by collegiate bodies . . . causes friction and delay and requires compromises between colliding interests and views. The administration therefore runs less precisely and is more independent of superiors; hence it is less unified and slower.¹⁵⁰

If one reviews the standard accounts of the state of the Congressional mind at the time of passage of the Budget and Accounting Act of 1921, one will find that they depict a Congress acting on just such an understanding of its situation as this. The budget seemed to be unmanageable and the spending levels determined through legislative compromise had led to a severe outbreak of national outrage. Feeling guilty and humiliated and quite unable to cope with the complexity of government finance, Congress finally handed the entire messy business over to the executive branch which, it was supposed, would coordinate spending policies and check the excesses of porkbarreling and particularism.¹⁵¹ In other words, the inefficiencies of collegial modes of procedure were thought to be radically unsuited to the necessities of a complex budget process. Disregarding its Constitutional grant of powers over the raising and spending of funds, Congress chose efficient control over spending levels by transferring a tremendous reservoir of power to that branch of government best organized for the bureaucratic disposition of spending decisions by specialists.¹⁵² Hence, at a stroke, the powers to regulate and to distribute were passed from the collegial and anarchic and undisciplined, but nonethe-

both as an influence over and a constraint upon further legislation. Rather than the competition that prevailed throughout the 19th century, these two factors comprise the basic interbranch dilemma that has impinged on the legislature for more than 50 years.

First, let us turn to the matter of bureaucracy, with which no one can be more helpful, or more tediously familiar, than Max Weber. Sharing a common generational vantage-point with Woodrow Wilson, Weber saw the coming of the bureaucracy for what it was: a clear and straightforward replacement of older, less efficient state forms by newer and more efficient forms. As an instrument of social regulation and the impartial distribution of goods, no other form of human organization could rival it. The following quotation will be as familiar to the reader as the Gettysburg Address, but I include it first because it is fundamental and second because what follows will be based upon it:

The decisive reason for the advance of bureaucratic organization has always been its purely technical superiority over any other form of organization. The fully developed bureaucratic apparatus compares with other organizations exactly as does the machine with the non-mechanical modes of production. Precision, speed, unambiguity, knowledge of the files, continuity, discretion, unity, strict subordination, reduction of friction and of material and personnel costs--these are raised to the optimum point in the strictly bureaucratic administration, and especially in its monocratic form. As compared with all collegiate, honorific, and avocational forms of administration, trained bureaucracy is superior on all these points. And as far as complicated tasks are concerned, paid bureaucratic work is not only more precise but, in the last analysis, it is often cheaper than even formally unremunerated honorific service.¹⁴⁹

Weber goes on to distinguish between the modes of daily opera-

less elected, Congress to spreading hordes of experts, a bureaucratic officialdom whose interests were administrative and whose individual careers were patterned along the lines of a permanent civil service rather than on those fluctuations of fortune which always haunt the elected.

But in handing away a set of responsibilities which it was either unable or unwilling to claim for itself, Congress set in motion a chain of consequences with the power to forge its own links. Where Weber is helpful in pointing out the utility of bureaucracy for accomplishing specialized and highly detailed tasks, Theodore Lowi has some interesting things to say about the effects which massive alterations in the policymaking process can have for the politics that supposedly oversees it.

In his article, "Four Systems of Policy, Politics and Choice,"¹⁵³ Lowi starts with the assumption that "policies determine politics."¹⁵⁴ Since government coerces, he says, it follows that an aggregation of countless small coercive measures provides the context in which politics takes place. While some policies directly affect behavior, such as the application of general rules to particular cases, others achieve their ends by working through the environment of conduct, i.e., by acting upon the processes through which the ends of policy are achieved.¹⁵⁵ This is important because through this formulation we can see the relationship which Congress established first with its environment and ultimately over itself, but now indirectly, as it moved to institutionalize certain executive branch agencies and

expand the role of its own staff throughout the policymaking process. The following details are provided primarily to illustrate the form of this relationship, because it constitutes the fundamental structural constraint upon the institutional liability of the contemporary Congress, and hence upon the real powers of its individual members.

Dodd and Schott have provided us with what amounts to the standard account of the primary characteristics of interbranch relations, as those relations have institutionalized since 1974.¹⁵⁶ Like most students of Congress, they begin their story at some time prior to making the points that really interest them. They start back at the turn of the present century. They note that by this time Congress had already created an administrative state, and that this state form, in turn, influenced the emergence of the modern Congress.¹⁵⁷ They then go on to deal exhaustively with several themes. First among these is that of the administrative state itself, which they see as the product of countless acts of a Congress struggling to create executive branch agencies for a variety of purposes. Today, such agencies have become their own centers of power and the focal points of particularized interests, and these developments are shown to have important consequences for national politics:

Different agencies cater to different clientele and interest groups, are subject to varying degrees of presidential control, responsive to different political influences, responsible for different programs, influenced by different professional cultures, and conditioned by unique histories. This balkanization has produced an administrative structure extremely difficult to coordinate, direct, and control. Yet it is supposedly the servant of Congress, not its equal, and certainly not its master.¹⁵⁸

Having found balkanization on the executive side of the government, they turn to the legislative, where they see a Congress marked by a decentralization which has steadily increased since the Legislative Reorganization Act of 1946 gave Committee government an unneeded impetus:

A primary drawback of committee government is that its decentralization makes coherent, coordinated "institutional" policymaking difficult. The post-war system of committee government suffered substantially from this latter limitation. Moreover, while the number of committee chairpersons was small enough to allow informal coordination, they each protected jealously their [sic] own prerogatives and did not readily seek the coordination that their small numbers would have allowed.¹⁵⁹

The reader who recalls our references to jurisdictional squabbles and the prerogatives of seniority should not be surprised by any of this. Committee government, however, led to something called "subsystem" politics, the improved version of which is at the heart of Dodd and Schott's analysis. They explain that the various committees began to develop their own peculiar personalities and group lives to go along with their respective jurisdictions.¹⁶⁰ At the same time, the norms of courtesy and inter-committee reciprocity blunted opposition efforts to prevent passage of committee legislation that might actually have been supported by only a Congressional minority.¹⁶¹ Hence institutionalization eased legislative promotion of special interests.

Meanwhile, on the executive side again, the policy implementation process often entailed considerable elaboration of the legislative guidelines established by Congress:

As administrative responsibilities and the size of the bureaucracy grew, these key decisions of policy implementation occurred increasingly at lower administrative levels and were made by civil servants or second-echelon political appointees. To be successful in many policy areas, interested groups of citizens had to focus considerable attention not solely on the president or congressional party leaders but on actors at the subsystem or subgovernmental level--on congressional committees and bureaucratic agencies.¹⁶²

This process of decentralization became increasingly elaborate throughout the 1950s. It entailed a conservative political process, far from the well of Congress, in which key personnel from within the agencies and the committee system established networks of friendships and working relationships with interested citizen groups that endured for decades.¹⁶³ Remember that permanent officials never and senior committee members seldom suffer from the possible ill-fortunes of electoral reversal and loss of position.

This tendency toward insulated politics was reinforced by the large number of subsystems that emerged as the national government grew--a phenomenon one observer has called "creeping pluralism."¹⁶⁴

During the reform period of the 1960s and 1970s Congressional power was dispersed to the subcommittees, and their responses shifted away from the committee chairs and to the full standing committees.¹⁶⁵ The results could not have been anticipated: here we see the appearance of an arena well suited to the needs of the entrepreneurial member, one which enlarges his powers, his turf and his opportunities for creditclaiming. The rise of subcommittee government

meant a vast proliferation in the number of congressional

actors who could claim some authority with regard to agencies and programs of the bureaucracy. As the number of congressional actors increased, the number of subsystem relationships increased. Instead of four or six committee chairs being the key actors in the programs and agencies of a particular department, the number of legislators who might claim authority doubled, tripled, quadrupled.¹⁶⁶

This point is crucial, for it touches on the most fundamental unsolved, and probably unsolvable problem in a representative democracy: if the representative is to represent, he must have power in the assembly. If the internal institutions of the assembly grant the individual member power at the expense of those of the general body, however, the grant of power to the individual is ultimately null and void. Perhaps this is putting the case a bit too strongly; perhaps member power is a function of member interest combined with member perception that he or she is in control of those areas of his political life that matter most. This notion of member power, however, rooted as it is in the member's own assessment of his position may be entirely too subjective. We will return to this matter below.

The second paradoxical outcome that Dodd and Schott find following the reform period should be obvious: instead of clearing up obstacles to legislative initiative and oversight, the proliferation of subcommittees has not only retained those obstacles, it has multiplied them by spreading them more widely and deeply throughout the chamber.¹⁶⁷

. . . if subcommittee government is not balanced by party leadership, by central planning committees, by incentives and mechanisms for independent bureaucratic oversight, then the

problems of leadership, coordination, and policy surveillance that arose from committee government will be exacerbated in sub-committee government. As Congress moved to disperse power, this is precisely what happened.¹⁶⁸

The consequences of these two paradoxes are widespread and serious. From them Dodd and Schott draw direct implications for the current dynamics of the Congressional budget process which ensued, and see it as having become a "war between the parts and the whole."¹⁶⁹ They discuss the by now byzantine structure of lawmaking activity itself, as each bill faces an enlarged number of subcommittees and full committees on its way to the floor.¹⁷⁰ They discuss the difficulties decentralization raises for Congressional oversight of the administration and its treatment of Congressionally instituted programs.¹⁷¹ Finally they sum up the effects which decentralization seems to be having on both the legislative and executive sides of government.

The policy process in the executive branch appears at times to be as truncated, disparate and pluralistic as in our national legislature. Both Congress and the bureaucracy exhibit many of the same characteristics that surround their respective policy processes and, hence, many of the same problems. There are a number of parallels between the way Congress approaches policy formation and the way the executive branch approaches policy implementation. The executive branch is not really a strict hierarchy in which decisions at the top are passed down the chain of command, but is instead pluralistic, with a number of competing centers of power and expertise, each with their [sic] own institutional histories, norms, and outside power bases--analogous to the numerous power centers of Congress that have proliferated with the development of full subcommittee government. If the national legislature can be termed, as we suggest, "subcommittee government," then perhaps it is not too farfetched to suggest that the executive branch, in its implementation of public policy, may be conceived of essentially as "bureau government."¹⁷²

What are we seeing here? Centralized government is undemocratic, and decentralized government leads to chaos on general questions and the sheltered protection of special interests on matters of detail. Dodd and Schott make a number of arguments and presentations of evidence to show that the gradual coincidence of form and function between executive and legislature constitutes the basis for unprecedented relations between the two. In both cases, there have been very real downward shifts of power, to what were previously subordinate groups or agencies.¹⁷³ In both organizations, the decline of hierarchy as the major control mechanism for the administration of the whole¹⁷⁴ has contributed substantially to this downward shift. This, they claim, leads also to an increase in the collegiality of superior-subordinate relationships within the bureaucracy.¹⁷⁵ The decline of collegiality within Congress as a whole, then, seems to be in the process of being supplanted by its emergence within the subordinate units of both branches where much of the real work of government and many important political decisions now take place.¹⁷⁶ Here is how they begin to sum up these developments:

As power has shifted downwards in Congress (i.e., from the committee to the subcommittee level) we have also witnessed a downwards drift in the executive branch from the department or agency to the bureau as the central focus of activity. We have seen as well the rise of "single interest" lobby groups--a decentralization of interest group politics. The result has been a proliferation of "mini-subsystems" in which the political process revolves around a subcommittee, a bureau and one or more single-interest lobbies.¹⁷⁷

What follows from this? First, it is clear that a crucial point of entry into subsystem politics for special interests is the

Congressional subcommittee. Decentralized and increasingly articulated by specialization, these organs of Congress become more manipulable as their respective spheres of influence have narrowed to a short list of areas. In addition, to the new mechanisms of Congressional interest groups, the subcommittee system itself has altered in such a way that the organized are better served.¹⁷⁸

Second, the proliferation of interbranch subsystems creates a politics of decision and implementation over which Congress has little institutional capacity to exercise centralized influence or control.¹⁷⁹ Questions of general interest go begging and no one is so positioned as to be able to assess the aggregate impact of the thousand decisions taken daily throughout the subsystems. Third, the general institutional ethos of Congress, as it is at present, is continued pressure for more decentralization and internal democracy coupled with member resistance to reforms that might recentralize power.¹⁸⁰ In other words, the entrepreneurial members, from their relatively elevated roosts in the subcommittee system, actively plump for further strengthening of those centrifugal forces which have done so much to weaken the general body already. Fourth, the daily process of government operations, having moved to the subsystem level, constitutes a self-perpetuating power base of interbranch interest networks maintained by those who share common fields of expertise, experience and influence.¹⁸¹ These networks, like the subcommittee members within Congress itself, have been known to resist the kinds of reform that might move the locus of decisionmaking back up the hierarchy to those

levels where publicity and electoral pressures constantly impinge on those who make the key decisions.¹⁸² Dodd and Schott include an illuminating remark which John Gardner made before a Government Operations Committee hearing on executive branch reorganization in 1971:

Some elements in Congress and some special interest lobbies have never really wanted the departmental Secretaries to be strong. As everyone in this room knows but few people outside of Washington understand, questions of public policy nominally lodged with the Secretary are often decided far beyond the Secretary's reach by a trinity--not exactly a holy trinity--consisting of (1) representatives of an outside lobby, (2) middle-level bureaucrats, and (3) selected Members of Congress. . . .

Participants in such durable alliances do not want the departmental Secretaries strengthened. And they oppose even more vigorously any reorganization that might shake up the alliance. If the subject matter is shifted to another congressional committee, the congressional leg of the trinity may be broken. If the departments are reorganized, a stranger may appear on the bureaucratic leg of the triangle. The outside special interests are particularly resistant to such change. It took them years to dig their particular tunnel into the public vault, and they don't want the vault moved.¹⁸³

Dodd and Schott conclude that the root causes of the decline of Congressional authority lie neither with the bureaucracy nor with the presidency, but within Congress.¹⁸⁴ They see this, as do Roger Davidson and others, as the outcome of Congress's inability to organize itself such that it can provide legislative leadership and authoritative oversight of executive branch activities.¹⁸⁵ We have traced the history of organizational confusion and reform efforts within the Congress in the preceding pages, and the apparent helplessness of all such efforts to stem the flow of power away from the legislature to the presidency. In general, the evidence supports

Dodd and Schott's contention that

If the executive branch has assumed leadership of legislative policymaking, control of the national budget, and unprecedented independence in policy implementation, it has gained these powers not because it has met Congress in a dramatic duel and won. Instead, the decentralized system of committee and subcommittee government has kept Congress so immobilized that it has often acquiesced in the leadership and strong role of the administrative state.¹⁸⁶

But the historical evolution of our national institutions has passed beyond the point of being merely a set of consequences that follow from the confusions of a decentralized legislature. Other forces are, and have been, at work here. If Congress has difficulty overseeing its works, if it has problems exercising control, or even understanding, over a polymorphous bureaucracy, we must also note that it once acted positively to bring the bureaucracy into being. And once there, the political forces generated by the deposition of power in the executive branch returned to work with the Congress and stayed to influence it and to change it profoundly. For Congress, the bureaucracy is an environmental problem.

To the extent that the subgovernment systems now have primary responsibility for the enactment and oversight of government policy, we can say that with regard to much of domestic policy, Congress has become no more than an adjunct of the Administration. The key to this is to be found in the efficiency of bureaucracy, which Weber pointed out so long ago. Bureaucratic methods characterize the executive branch approach to problems, and at the same time, this approach is incompatible with the confused and sometimes ambiguous processes of

political debate and compromise that always plague assembled bodies of men. Hence, the Congress began by sharing its duties with the more-efficient Administration, but wound up adopting its methods. But methods of procedure and action engender habits of mind, much as the environment of established and enacted policies influences the politics that comes after it. Congress began to think more and more in technical and bureaucratic terms as the issues which confronted it became more complex and its own internal structure refracted into smaller and smaller pieces. Thus it began to turn political or general considerations into areas of specialization and expertise that could be handled compatibly with the structural and jurisdictional demands of the increasingly bureaucratized executive branch which, after all, had come to constitute the most important constant element in its daily working environment. In undergoing such a process of evolution, the Congress has become less and less like a collegial body and more and more like an administration. Fiorina has summed up the evolutionary dilemma simply enough: "Congress does not just react to big government. It creates it."¹⁸⁷

In our context it is decisive that in the administration of mass associations the trained career officials always form the core of the apparatus; their discipline is the absolute precondition of success. This is increasingly so, the larger the association is, the more complicated its tasks are, and above all, the more its existence depends on power. . . . Increasingly, the real work in all organizations is done by the salaried employees and by functionaries of all kinds. Everything else has become window-dressing.¹⁸⁸

Two remarks are appropriate here. First, Dodd and Schott are at some pains to emphasize that the classical Weberian characteristic

of hierarchical control appears to be on the wane in much of modern organization.¹⁸⁹ They trace this to the professionalization of the public service and to the increased emphasis now being placed on collegial as opposed to subordinate-superior relationships. The key to understanding this particular aspect of the contemporary Congress does not lie in trying to match some diagram of its organizational structure with that of the classical Weberian paradigm. Instead, what counts is the growing professionalization of the Congress, which Fiorina pointed out, and the growing size and professionalization of its staff, to which we shall turn below. Further, if we are to accept the notion that collegiality is replacing hierarchy, we need look no further for supporting evidence than in the issue networks promoted by special interest coalitions and groups, and the personal networks of power through which individuals move back and forth between the executive and legislative branches of government. Collegiality, after all, seems to have become bypassed in Congress, except within the subcommittee system itself where members work closely with one another, but share responsibilities for narrow and specialized issue areas. Therefore, what collegiality seems to exist is to be found in interbranch relations organized along the fissures that divide and separate one technical area of jurisdiction from another. In terms of the daily operations of government, such fissures seem to have replaced the great geologic divisions of power that were originally mapped out by the founders.

Our second remark concerns the "window dressing." For some

observers, particularly the anthropologist J. McIver Weatherford, the substance is quietly draining away from many of the daily activities of the legislative process, and a kind of media ritual is moving to center stage, while the staff works behind the scenes with increasing responsibility for the real work and assumes ever larger grants of power. We will turn to this analysis shortly. What matters here is not whether Weber was literally correct, but whether he foresaw the actual lines of development that democratic governments would follow in the 20th century. With regard to the increasing specialization of tasks and enhanced influence of salaried employees over elected officials, it seems that he was.

Now who are the people who fill these roles, who actually attend the meetings and the lunches and the skull sessions that supply the living tissue of human connection between Congress, interest groups and executive agencies? Proceeding from the standpoint of Congress, many of them are not members of Congress at all, but members of the Congressional staff. The essential nature of Congressional Staff is ambiguous: it can be seen as the formally constituted attempt by Congress to cope with a changing environment by providing sufficient conditions of its own bureaucracy. Or, following Weber, we can see it as a development typical of mass democratic societies which have reached the point where most of the real work is performed by armies of hired functionaries.

There was a time, back in the foggy mists of the nineteenth century, when many members of Congress didn't even have their own

offices, let alone a secretary, let alone a staff. What did exist were personal aides and a very tiny support staff consisting primarily of clerks and secretaries. Throughout this period, and up until a few decades ago, the elected representatives of the people debated, compromised and reached decisions about the nation's legislative business on their own.

The new era began, roughly, with the Legislative Reorganization Act of 1946. At that time, Congress was housed comfortably in six buildings, members worked directly with their colleagues, and people had reason to believe that their opinions expressed in letters, would be read by the person they voted to put in office. This has all changed. Congress is now a vast enterprise crowded into fifteen buildings, with one more under construction and sixteen more in the planning stage.¹⁹⁰

According to Malbin there are now, altogether, 23,528 people busily at work on Capitol Hill, energetically supporting the 535 members of Congress. Are the 535 helped or swamped by the 23,528? Not all of the 23,528 work on legislation. Some are in charge of constituency-related casework, some work in the Library of Congress or for the G.A.O. But many are staff employees who work directly with members or organs of the Congress in the daily conduct of its business. For Malbin there are four kinds of staff with legislative influence: committee staffs, legislative aides on personal staffs, some support agency staff, and the staffs serving the leadership and ad hoc groups.¹⁹¹ Malbin considers committee staff to be by far the most important, and it is with this sort that his book is chiefly concerned.

What are the major characteristics of this staff and what does

it do? First, it has been rapidly waxing in numbers in recent years:

At the time the Legislative Reorganization Act of 1970 was passed, House committee staffs were about four times as large as they had been in 1947 (702 versus 167), and Senate committee staffs were about three times as large (635 versus 232). These numbers kept going up during the 1970s. Senate committee staffs nearly doubled again between 1970 and 1979 (to 1,217) while those in the House increased tripled (to 2,073).¹⁹²

Second, more staff means more information coming into members' offices, thereby strengthening Congress's ability to cope with a complex world, and simultaneously raising administrative problems for every member. Each representative now has his own little bureaucratic operation to oversee and orchestrate.¹⁹³ Third, the current necessity for credit claiming and public exposure leads members to hire aides

. . . who will dream up new bills and amendments bearing their bosses' names instead of helping the bosses understand what is already on the agenda. The result is that the new staff bureaucracy and the workload it helps create threaten to bury Congress under its own paperwork, just as surely as if the staff never existed.¹⁹⁴

In addition to unleashing a flood of information on Congress, and bureaucratizing its members' offices one by one, Congressional Staff has also begun to play a political role. Professional committee staff began to be developed in the 1920s on the House and Senate Appropriations Committees and on the newly formed (1926) Joint Committee on Internal Revenue Taxation.¹⁹⁵ But the Staff were not forever to remain nonpartisan and professional. As more committees were authorized to appoint staffs, more staffs were designated "majority" and "minority." By 1962, committee staff in general was ceasing to facilitate the work of entire committees and moving to pro-

mote particular policies.¹⁹⁶ The reforms of the 1970s strengthened this movement immeasurably, for many of the subcommittees were authorized to hire permanent staff to buttress their power and make it possible for them to hold hearings. Such staff were invariably designated "majority" and "minority." With these developments, the power and influence of staff members took a quantum leap, for not only were they the ones who gathered the information which made hearings possible, their own personal and partisan preferences inevitably came into the selection process. At this moment we are still in the full flood of that increase in staff members which threatens Congress at a very fundamental level, and the irony is that this increase was instituted in the name of democracy and with the intention of strengthening Congress:

In the House . . . staff growth and internal democratization have gone hand in hand. The staff increases on House committees in the 1970s resulted largely from the 1973 House Democratic Caucus's "Subcommittee Bill of Rights" that liberated subcommittee chairmen from the control of the chairmen of full committees. As a result, most of the committee staff increases in the House during the 1970s have been at the subcommittee level. . . . Since then . . . the distribution of staff resources has become more widespread. This broader distribution both results from and reinforces internal democratization, as more members have the staff resources to pursue their own legislative ends.¹⁹⁷

Not only have staff numbers increased in recent years. The kind of individual who fills these positions has altered radically. No longer do we find the dry, professional, technically oriented individual who came to fill a permanent staff position in the old days and stayed to make a career of it. Instead, a new kind of person is coming down to

Washington. This individual is young, bright, usually a lawyer, and usually intent upon making his or her time spent as a staff member a stepping stone to a more powerful, better paying position somewhere else.¹⁹⁸ At the mercy of their Congressional employers and under pressure to build network connections and some reputation for legislative creativity, these individuals give expression to their ambitions by seeking first to have innovative legislative ideas, and second to make sure that those ideas are written into various bills. When such staff impetus is combined with the inability of most members to keep track of the multitude of complex issues now moving beneath their noses, qua district representative, subcommittee chairman, subcommittee member, caucus member and party member, it is easy to see how the staff might come to exert influence. It is not difficult to gain influence over the detailed affairs of a preoccupied employer. Staff influences will inevitably be of the sort which the specialist always exerts upon the generalist. Regardless of any formal distinctions in their respective positions, many representatives must turn to staff personnel to learn the details of the hundreds of technical questions about which they must decide every session.

But problems arise for both the Congress as an institution and for the political autonomy of its individual members--i.e., precisely for those who advocated the hiring of additional staff to increase their personal power in the first place. When staff actively enters the domain of policy formation, and this is what has been occurring, it becomes a semiautonomous political force of its own, capable of

influencing the Congress from within, and capable of shaping the framework within which the individual member disposes of particular questions. This remark is not intended to impute either sinister motives to, or to adduce unwanted legislative consequences from staff practices. But it must be noted that a changing workload and public policy environment led Congress to hire more people who, once in place, came into existence as a parallel structure of information, political knowledge and power. And now the two, Congress and its staff, are inextricably entwined, one elected and one not.

The Staff's influence, we have said, pervades the legislative process. No stage in that process is more important than the first: determining Congress' agenda. And at no stage have the newer-style staffs had a greater impact on the way Congress works. It is the one point in the process where the interests of the members, the goals of the staff, and the position of staff in the Washington issue network come together to influence what Congress does.¹⁹⁹

It is impossible to underestimate the importance of the political leverage at stake in the simple question of agenda setting. No one who has studied politics or history can avoid noting that the first item in the minds of political actors from Lenin at Petrograd to Roosevelt at Yalta, has been to obtain an agenda that will enable them to move smoothly through a succession of intended aims. In collegial bodies and legislatures, the task of agenda setting is usually carried out by members of the assembly or by its leadership. Here we have a case where the legislative membership participates in this crucial matter, along with their hired servants. It is a little like asking the butler who ought to come to tea.

Different members and different committees use their staffs in different ways. For Malbin's purposes, this is the same thing as saying that they have different kinds of staff. Some members keep the staff under tight rein, allowing them to summarize a legislative situation and present alternative options. Others loosen the reins somewhat, allowing staff to criticize existing approaches and suggest alternatives. The loosest reins are held by members who let the staff take the lead, while they content themselves with providing political authority and support. Malbin notes that this third kind of staff has been dubbed "entrepreneurial staff" because these are the ones notable for coming up with ideas that they can "sell" to members. Thus entrepreneurial staffs help advance the enterprise of credit-claiming for both the representatives whom they serve and for themselves as they pursue their own career goals.²⁰⁰ Clearly, it is the entrepreneurial staff, as opposed to the traditional, professional, career oriented, non-partisan staffs, which raises problems for the practice of representative government.²⁰¹

The basic and overwhelming dilemma that confronts the Congress in its staff relations, in Malbin's view, is this: given the overwhelming demands of a large and complex government and a heterogeneous society, Congress needs a wealth of information if it is to carry out its Constitutionally mandated duties. It relies for this information upon its staff. The staff, for its part, generates so much information, at office, subcommittee and committee levels alike, that both individual members and the general body are swamped by a

flood of information. Congress cannot handle this staff-generated workload.²⁰² As more and more papers get stuffed into the feeding tube, the wheels of the machine turn with increased friction and decreasing velocity. Eventually, we can expect . . . what? a fire? A complete clogging up of all moving parts? Or will somebody decide that the old machine is overloaded, inefficient, not up to the tasks of the modern world, and must be junked? We are in this waiting period now.

Once he has described the basic situation, Malbin goes on to point out a number of attending difficulties. Staff has its own internal politics. Staff members wrangle over jurisdictions and policy alternatives much as representatives themselves do in caucuses, in subcommittees and on the floor. Staff politics adds a third level of politics to those traditionally studied, i.e., that which goes on among members in Congress, and that which goes on between members and their electoral constituencies. This third level complicates matters by one order of magnitude.²⁰³ Further, with their own schedules and outlooks foreshortened by the urgency to gain credit, entrepreneurial staffs encourage representatives to "avoid thinking of the long-range impacts of the policies before them"²⁰⁴ and encourage the kind of short-run achievements which can be accomplished in a single session and the results of which can be readily publicized. Finally, sometimes staff has been known to supplant members of Congress. A conference committee, meeting to resolve differences over a G.I. benefits bill in 1977, never gathered together to meet. Instead, the

work was done when

Key staff people simply sat down for three days in late October and early November and resolved the differences between the two bills. These differences went well beyond monetary questions to ones of policy that the committee members saw as issues of principle. As a result, the staff level compromise was no simple split-the-difference affair. To find some common ground between the interests of the key members of the House and Senate, the staffs had to come up with imaginative new formulations significantly changing existing law. These formulations, some of which had never been discussed previously in either chamber, were ratified by key committee members and adopted unanimously, with virtually no debate, by the House on November 3 and the Senate on November 4.²⁰⁵

Malbin's discussions--of staff roles as "filters" of the information which comes to members²⁰⁶ of rivalries between legislation--and oversight-oriented individuals;²⁰⁷ of a common staff tendency to prematurely leak results of investigative hearings, or to publicize their own hypotheses, while neglecting to announce when projected scandals are not borne out by evidence;²⁰⁸ and of the management problems that follow when one person is in charge of a subcommittee staff of thirty that generates sufficient information to sustain a public hearing one of every two days Congress is in session--together suggest that the problems of coordination and self-control that have plagued Congress throughout its history are compounded anew by its staff. The difficulties that beset Congress in the Federalist period now appear among the supporting staff members who through their numbers present the body with what might be called "bureaucratic" problems, and through their political activities make those of the general body all the more difficult of solution.

Nor are the problems of the new regime merely organizational and political. They extend to the quality of Congressional understanding of the legislative matters. Simply put, does the welter of information and technical expertise now raining down on Congress help the human beings who toil there perform better service for the country or not? Are they any better able to deal with the issues of the day in terms of the basic principles behind them--as the earliest Congresses were so concerned to do? Malbin presents one very clear example, of a debate on a very broad question, which suggests not:

. . . the use of policy analysis in the natural gas debate of 1977-1978 can tell us something about the way Congress's sources of information have changed over the past two decades. When Congress debated the issue of natural gas price deregulation in 1955-1956, virtually all of its quantitative information came from the gas industry and the administration, while all of its arguments about costs and supplies were based on sweeping intuitive judgments and assumptions from these same sources. (The debate, it should be remembered, took place before any of the econometric models used by the analysts of 1977-1978 had been developed.) On the other hand, the 1955-1956 debate was probably more detailed and more sophisticated than the ones of the 1980s on the Constitutional questions raised by price regulation and on the issue of potential monopolistic or oligopolistic control in the industry. Thus, the fact that there was more quantitative information available in 1977-1978, and the fact that Congress used its enlarged staff to help it cope with the econometric technicalities of this information, do not settle whether the senators and representatives of 1977-1978 were themselves any better informed than their predecessors.²⁰⁹

It seems then, that for all its technological advances, for all its computers, its armies of attendant staff lawyers and Ph.D.'s, its regression analyses and piles of tables and statistical data covering miles and miles of computer print-outs, that Congress is in

no position to be an intelligent user of the wealth of materials thus spread before it. "Members today are simply too busy and not sufficiently knowledgeable" to do that sifting of all this material which alone could strengthen their intellectual grasps of the technical matters at hand.²¹⁰ The following passage from Malbin's book sums up the current state of affairs pretty well:

By creating [staff] incentives for finding new legislative issues, the Congress helps enhance its role as an independent body able to influence the national agenda on broad terms. At least some of this activity clearly helps Congress maintain its position as a coequal branch of government. But as we saw, Congress, in the process, has given up much of its control over the agenda to the staff. . . . It seems clear, therefore, that as more and more of Congress' 250-plus committees and subcommittees adopt this staff style, the effect will be--indeed, to a large extent already has been--to turn its staffs into a mechanism for generating more work for Congress instead of helping it manage the existing workload. Our concerns about Congress's independence and about its inability to manage an increasingly fractionalized workload pull us in different directions. Both will have to be weighed carefully before we can achieve a balanced assessment of the effect of Congress's new use of staff on the legislative branch's ability to do its job.²¹¹

If the student of Congress sees legislation as its output and voting as its activity, he will focus on its internal politics and institutions. If, however, policy is his emphasis and his concern, he will find himself talking about the politics of the administrative state. In classical conceptions, what we call "policy" was the outcome of political deliberations. Students of classical politics study those who deliberate and who decide. In the modern state, however, what was once united in the assembly hall has become separated and widely distributed throughout the sprawling architectural maze of

modern Washington. However awkward the move may seem, then, if we follow the classical model we must follow the paths of those who deliberate and decide, out of the well of Congress and away from Capitol Hill. This means following staff members up Pennsylvania Avenue where they have not only taken on a life of their own but have come back to haunt their progenitors by bringing something of the bureaucracy into the structure of Congress itself.²¹² If Congress's committees make consensus building difficult, and the address of broad and general questions next to impossible, the task of overseeing the activities of the executive branch bureaucracy seem equally beyond it. While the contemporary literature on the oversight problem is voluminous, little of substance has been added to Wilson's summation of that essential difficulty. What Congress has set up, it cannot control:

Congress stands almost helplessly outside of the departments [of the Administration]. Even the special, irksome, ungracious investigations which it from time to time institutes in its spasmodic endeavors to dispel or confirm suspicions of malfeasance or of wanton corruption do not afford it more than a glimpse of the inside of a small province of federal administration. Hostile or designing officials can always hold it at arm's length by dexterous evasions and concealments. It can violently disturb, but it cannot often fathom, the waters of the sea in which the bigger fish of the civil service swim and feed. Its dragnet stirs without cleansing the bottom.²¹³

Therefore, we find that the institutional powers of Congress, far from being increased by the staff which provides it information, or the bureaucracy which carries out its mandates, are overwhelmed by a surfeit of the one, and confounded by its inability to monitor the other.

J. McIver Weatherford approaches the whole question of the bureaucratization of the Congress from the standpoint of anthropology instead of political science. He begs or ignores certain questions, particularly those arising from law or organization. Many in our field would find him weak on the role played by legal institutions in any society. His strengths, however, are in "off-beat" areas that can provide insights for the rest of us. Anthropologists do field work in primitive societies where they investigate a number of fundamental questions. For our purposes, Weatherford's background in kinship networks and the collective uses of ritual to posit and sustain shared world views are particularly helpful.

Weatherford does not think that Congress is a bureaucracy. Nor would he agree, necessarily, that the "bureaucracy is out of control." For Weatherford, what counts is not the formal relationships and the academic and legal problems raised by the oversight question, or questions of recursive interbranch influence. What matters to him are the informal bonds that connect people together. And within this limited domain, he shows that to ask whether Congress is able to exercise a reasonable degree of control over the rest of government is really beside the point. What counts, in his view, is that certain members of Congress exert considerable influence over important parts of government. The key to this analysis, which is of the sort anthropologists relish, is the personal or clan network. When he looks at the role of Congressional staff, Weatherford sees personal networks radiating out from senior "big men" in Congress.

These are more familial than strictly bureaucratic:

. . . close ties in Congress resemble what the British anthropologist F.G. Bailey in describing politics in India calls "personal bureaucracies." Groups of personal retainers coalesce around individual politicians within a bureaucratic setting, the underlying principle of organization being the relationship of patron to client. Each of the 20,000 employees of Congress is the client of one (and only one) of the 535 members of Congress. In turn, some of the members become clients of other members, as we shall see. . . . As a principle of organization, the patron-client relationship supplies Congress, despite its large size, with a peculiarly nonbureaucratic form. Because of this, the organization of Congress is socially closer to that of a New Guinea tribe, an Indian village, or an African clan than it is to most Western institutions such as a business, a school, an army, or even other branches of government. The American Congress more closely resembles the ancient legislatures of Rome, Byzantium, and Greece than it does the modern legislatures of Great Britain, Germany, Canada or France.²¹⁴

When members arrive in Congress, they begin the process of building up clans or staff networks to assist them. The choices they make are crucial to their career patterns and help determine what sorts of legislators they will turn out to be.²¹⁵ Committee chairmen, for example, are not only in a position to recruit extensive personal staff networks, but incorporate committee staff into their clans as well. A very powerful member of Congress, such as Senator Kennedy is or Senator Muskie was, can retain control over the entirety of such networks--even when moving from one committee assignment to another.²¹⁶

For Weatherford, such shufflings at the formal level change little at the substantive level of power:

The nominal jurisdictions and the titles belong to the facade of Congress. As part of that facade they are rearranged every other year, when new shingles are made and

hung out to represent the shifting tides of public concern and media attention. Behind this ever-changing facade, however, is a simple arrangement that clarifies the location of power. Power is where the staff is.²¹⁷

Congressional clans may, and often do, expand away from Capitol Hill itself as individual staffers gain executive branch appointments or move to other positions of power within Washington. Yet their clan-alliances persist over time, and a well-organized clan can continue to operate smoothly, even after the death of its chief. Crosscutting the formal organization of government departments, political parties and lobbies, these extended clans form the network base around which government operates.²¹⁸ (Note that the "form" of these arrangements is more or less the same as that of the iron triangles described by Dodd and Schott, but that what ultimately connects the participants is not "interests" per se, but their relatedness to one another by clan membership.) Among other concrete examples, Weatherford cites that of John Stennis, head of the "military clan" which, even now, is bringing us the Tombigbee Waterway, an immense project orchestrated not through the Public Works Committee, as one might expect, but through the Army Corps of Engineers.²¹⁹ This is the old military clan of the Senate, the patriarchy once headed by Carl Vinson, and subsequently passed on, first to Mendel Rivers, then to Edward Herbert and finally to Stennis. Stennis's tenure is approaching its end, and Sam Nunn is the likely heir apparent.²²⁰ The power of such informal organizations extends far beyond the Senate chamber and is exercised through more than the simple force of law:

. . . it is in the anonymous corridors of the bureaucracy more than in the marble halls of Congress that the real power of Congressional Clans manifests itself. The connections between the bureaucracy and the national legislature embody the most important relations in government; yet, as pointed out by Lord Bryce in his nineteenth-century description of America, this connection "is the thing which the nation least notices and has the scantiest means of watching."²²¹

Weatherford says that Congressional clansmen stream down Capitol Hill in a perpetual torrent,

filling the cavernous halls along Pennsylvania Avenue and spilling into Foggy Bottom. They become commissioners of the Interstate Commerce Commission, directors of the National Endowment for the Arts, assistant secretaries for the Department of Commerce, and officials of every part of the government from the Corporation for Public Broadcasting to the Federal Energy Regulatory Commission. Behind every oak door and around every simulated-wood conference table in the City of Washington is a former Hill staffer, brandishing the colors of his Hill clan and congressional sponsor.²²²

It would be foolish to confuse the power of Congressional clan networks with the powers of Congress or to mistake the political influence of the one with the institutional viability of the other. The formal and legal framework of institutions, through which we manage our collective affairs, both defines and limits the uses of power in our society. At the same time, such institutions are not, because they cannot be, structured to embrace networks of shared interests and experiences, networks which sometimes are based on something like the elective affinities of Goethe. Yet such networks bind the influential together in every society, and are essential to its operations. Unfortunately, there seem to be times when the formal institutional framework defines the horizon of possibilities for the informal networks, and other times when real political power flows

along the lines of the personal connections established by every class and generation. The recent drastic increases in staff size and influence strengthen the positions of the networks at the expense of the most public institutions, and as such may constitute a major formative step in the gradual emergence of a not-yet-seen permanent structure of political power in the nascent culture of the United States. On the other hand, network influence may be temporary, but given the nature and complexity of the political tasks at hand, and the confluence of forces represented by subcommittee government and Congressional clanbuilding, I do not see how this could turn out to be the case.

Although I have dwelt somewhat at length on staff power and influence, I hope that the reasons for the emphasis are obvious. First, subcommittee government is one aspect of a decentralization of Congress that goes to the heart of its internal organization and institutional function. Staff members get their careers started here and then either move into the bureaucracy or stay to work closely with other former staff members who have. As clients of elected representatives, they also exist as elements in informal clan networks that translate the de jure authority of Congress into real and immediate power. Second, the increasing refinement, striation and complexity of institutional forms and government organization pushes these individuals into narrower and narrower spheres of active concern, in which they pursue ever more technical and specialized tasks. These developments are attributes of bureaucracy, and I have tried at least to

indicate the existence of a kind of institutional "feedback" that flows through the networks to influence the form, function and power of the Congressional nerve center which gave this set of developments its initial impetus. All of these developments can be subsumed under the rubric of interbranch relations. They seem to point to a Congress which faces an ever-constricting sphere of action, an ever approaching horizon of possibilities.

There is one additional factor with regard to the role and function of Congressional staff that needs to be pointed out. Again the source is Weatherford. Here we are concerned with the public space functions of debate and deliberation that constitute the philosophical raison d'etre of Congress. What Weatherford's description shows is that the "public" nature of Congressional operations has somehow gotten perverted from the open conduct of public₁ business in the eyes of public₂, to the presentation of ritual performances of stylized activities before a media audience in a televised forum to which it has grown accustomed to look for entertainment rather than politics. It is as though we had decided to dress our representatives up in medieval costumes and put them on a stage replica of the old Globe Theatre in London. What Weatherford shows is the extent to which most of the work and many of the real decisions are still being carried out, right where they have always been, behind the scenes, but that in this case, the representatives, by spending increasing amounts of time before the cameras, are being squeezed out of the real political process. This has come about, I think, because Congress remains a

public body with public functions to perform, and maintains a semblance of public responsibility by parading before the camera's eye. Weatherford's account is less than an analysis and more than a caricature. Though it is longer than usually thought proper for a quotation, I include it here because, better than any other published source, it sums up one very important dimension of the daily life of the average member.

Students of Congress who have had occasion to seek interviews among the members themselves have doubtless had the experience of spending twenty minutes with a busy representative, starting in his office, hearing a bell ring somewhere in the distance, and then running with him down the hall, into the Congressional subway system and over to the Capitol building where both jam themselves into a packed elevator and ride up, amidst a flood of jokes, to the entrance of the chamber itself where the representative and the student necessarily part company. Throughout this burst of activity, some sort of colloquy is supposed to be taking place--if the member can concentrate well enough to reply and the student well enough to take notes. Since this rushed and hurried aspect of daily life seems to be the rule rather than the exception these days, Weatherford is correct to emphasize the proportionate increase in the ritualization of that life and the production by Congress of what he calls its "ritual record." Meanwhile, behind the badly oiled and clanky screen of such media performances, staff specialists and technical experts busily fine-tune the public's business.

Producing the ritual record has become the real business of Congress. Slowly but persistently through two centuries, the demands of ceremony, ritual, and the accompanying record have crept through the Congress like a kudzu vine, taking over one legislative forum after another.

The normal work day of a member of Congress is spent making a series of cameo appearances in the various ritual arenas. Early in the morning he bangs the gavel calling a committee hearing to commence, and, reading from a sheet, announces the subject, which is always of grave importance, and welcomes the visitors, who are always distinguished and dedicated experts. While the expert rambles on about this issue, the senator listens to an aide explaining about the upcoming meeting with a 4-H Club and at the same time signs a batch of documents thrust at him by his secretary. As soon as another senator stumbles into the room with his handful of question cards, the presiding senator turns the hearing over to him and excuses himself. He then dashes over to the Senate floor, where he presents a one-minute oration on the need to increase widget exports to Third World Countries, the national importance of the upcoming peach festival in his home state, and why he favors another round of disarmament talks as a way of solving the energy shortage. Having been delayed on the floor by a long line of other one-minute orators, he is late for another committee meeting that is supposed to mark up and report a bill. The amendment his staff drafted is not presented because the bells ring and the lights flash in the committee room, calling him back to the floor for a vote. Running out of the room with all the other senators, he asks if anyone knows what the vote might be on. Before they can decide, they are in the crowded hall in front of the chamber. Surrounded by lobbyists and by aides trying to find their masters, he barely catches a glimpse of his own legislative assistant pinned against a fluted column on the far side of the room. Unable to get closer than twenty feet to one another, the aide gestures a set of prearranged signals to his boss telling how they need "to go on this one." Still not knowing the topic, he hurries into the chamber, registers his vote, and tries to get back to the subway before most of the other senators leave the chamber. Sitting with two other senators for the ride back to the office building, he asks if anyone knew what that vote was all about. One thinks it was a motion to table the motion to reconsider the addition of \$5 million to build halfway houses for abused spouses. Another insists he heard something about a medal of honor commemorating John Wayne's heroic services to the American nation. Before a consensus can be decided, they arrive back at the office building and each rushes off to his next appointment.

Even though our senator wants to return to the committee mark-up of the farm bill and propose his amendment, his aide tells him that he must go back to the original committee hearing because two teachers from his home state are about to testify as representatives of the huge and politically active State Education Association. As he arrives back at the hearings, the teachers are almost finished, but he interrupts to welcome them, restate the importance of the grave subject and distinction of the witnesses, and to beg their forgiveness, for he has an appointment at the White House. The White House bill-signing ceremony is not for another four hours, but such excuses sound much better to hometown folks than telling them that he has a photograph appointment with the 4-H Club. Leaving the 4-Hon the Capitol steps with an aide to give them a personal guided tour through the building, he runs back into the chamber, where he must introduce three bills that his staff has worked on for the past several weeks. Then comes a reception for the President of Italy, but he stays only long enough for a friendly photograph to be used in the hometown Italian newspaper. Finally getting back to the committee mark-up, he finds that the meeting is almost over, his but clever assistant has managed to get another senator to sponsor the amendment in exchange for his voting proxy, which the aide rapidly drafted and signed with the senator's name.

Each day for a member of Congress resembles the schedule of a film actor, which indeed a number of politicians may have been prior to entering public service. An actor plays in several different productions at once and must rush from one shooting scene to the next. The politician enters one scene, is coached by a waiting assistant for a few moments, and then performs the role. His particular performance may have no relation to that of the actors who appeared just before or after him, but the pieces will be edited together in a coherent fashion afterwards by the staff. The important point is simply that he should get his appearance on record. He voted, he came for the quorum call, he asked the question of the witness, he introduced the bill, he co-sponsored the amendment, he spoke the sentence. The staff can issue all the press releases and printed speeches to show that this made him a prime mover. The one question can be turned into a probing inquisition on paper, the one-minute speech into three speeches of oratorical grace spread out throughout the day's record. The picture with the President of Italy can be released to the press with a long explanation of the senator's active participation in Italian-American concerns. The film clip of his welcoming the members of the State Education Association in the ornate committee room can be shown on local television as proof of his sincere concern

with local issues. In each of these scenes, the politician uses only enough time to act out in abbreviated symbolization of what he appears to be doing.

Politicians have become specialists in ritual--ceremonial figures who preside over and invest each session with the appropriate dash of authority. They bestow on it a patina of official mana. Symbolically, the legislator occupies center stage as the star of the event, but the real decisions occur backstage. The member of Congress, however, has too many of these public appearances each day for him to get backstage where the decisions are made. His day is too filled with the rites of legislation for him to be very involved in its actual substance.²²³

A Note on the Budget and Spending Process

Once you get into tax legislation, there is always a majority for "reform" . . . but very seldom a majority for any particular reform.

Russell Long

A great day is about to dawn in the House of Representatives. There has been a lack, we are told today, of will, discipline, and restraint, and this budget control bill is going to cure all things. . . . Everything and everybody is going to be reformed . . . is going to be hunky-dory, and the goose is going to hang high. If we just pass this bill, we will have brought into play all the will, all of the restraint, and all of the discipline that is necessary to balance the budget, stop inflation, and restore fiscal sanity. Do not believe it for one minute.²²⁴

There is nothing even remotely complex about the matter of government spending. Indeed, this is perhaps the only attribute of modern government to which we can ascribe "ontological" reality. Money, after all, is tangible; more so than any possible ideology or theory or alignment of political interests, for it can be counted and weighed, gathered in from the people through judicious application of the force of law, and disbursed with a finality paralleled only by the

end of life itself. The government, like any other entity which has to come to grips with the matter of money, has methods for acquiring it and projects upon which to lavish it. In general, it benefits acquirers and spenders alike to know, more or less, how much they are acquiring and spending, and therefore how much they will be forced to borrow or able to save should their acquisitions and disbursements get out of balance. Hence both the acquisition and disbursement of funds are facilitated by something we have come to know as an accounting process.

Wildavsky has made it pretty clear that those involved in the spending processes of the U.S. government, whether they find themselves on the executive or legislative side of the government, begin their annual deliberations from a base figure which reveals the approximate level of spending for various agencies and programs in the current year. From this figure it is relatively easy to go on and compute how much you intend to spend during the following year and what you intend to spend it on.

But politics raises its ugly head. What happens to this simple and straightforward and altogether reasonable situation when we concretize it, so to speak, and toss it into the maw of a feverish and overwrought government? In a word: all hell breaks loose. Conflict is instantaneous and pandemic: about the methods of computing the base; about the form in which budget requests and projections are to be tendered to those who have the authority to decide; about the distribution of that authority between the executive and legislative

branches. Behind all such conflicts lies a deeper one: there are always those who desire to spend more, and these are pitted in a bitter struggle against those who desire to spend less. One need search no further afield than Dante to find an image for this:

Here I saw far more people than elsewhere, both on one side and on the other, with great howls rolling weights by main force of chest; they clashed together when they met and then at that point each turned about and rolled his weight back again, shouting: "Why hoard?" and "Why waste?" Thus they returned round the gloomy circle on either hand to the opposite point, shouting at each other again their taunting chorus; then, having reached it, each turned back by his half circle to the other joust.²²⁵

In Dante's image, the misers move toward the right, the spendthrifts toward the left. And the weary futile round goes on to all eternity.

The clash between hoarders and wasters embroils both the executive and legislative branches; it reaches out to the professions of journalism and economics. Even members of the political science profession become caught in its eddies, and this last raises difficulties for the student of Congress who would evaluate its budgeting and spending practices: the ultimate criteria for any professional evaluation of this aspect of Congressional life are to be found in the hoarding or wasting hearts of the various commentators.

Once we have drawn this elementary fault line through the scholarly and political landscapes, it is then possible to point out a few of the lesser political problems that loom between the student and his comprehension of Congress and money. We have already presented a picture of a heterogeneous Congress, populated by entrepreneurial mem-

bers, disorganized by a want of party discipline and subject to the sudden appearance and disappearance of ad hoc caucuses. These and other disorders can be traced back to what the members of the political science profession are wont to treat as "competing claims." Beyond these, however, lie difficulties to baffle the logician. Aaron Wildavsky starts his Politics of the Budgetary Process with what we could see as a purely formal problem in the theory of resource allocation. Should budgets reflect the views and needs of those in the field, so to speak, or should they be a reflection of the overall picture as seen from a central point?

It is obviously impossible for budgetary totals to be determined entirely by a "bottom up" process in which all spending desires of all the spending agencies are added up. Such a process would require that there be no limits to resources, and we know that there are. By the same token, it is also impossible for spending totals to be determined entirely by a "top-down" process, because that process would require that there be no limits below which governmental spending could be reduced, and again we know that it not true. Both bottom-up and top-down processes must operate simultaneously and in the same environment. The interest for students of budgeting lies in their interaction.²²⁶

Alan Schick begins his somewhat magisterial treatment of the same process with a similar conundrum, though what interests him is the struggle for power itself, rather than any distribution of goods which may ensue:

While legislative norms propel Congress toward the fragmentation of power, budgeting invites the concentration of power. Budgeting necessarily involves the pulling together of disparate interests and perspectives in a reasonably comprehensive and consistent decisional process. Budgeting demands attention to the relationship of the parts and the whole, to the linkage of tax and spending politics, as well as to the priorities accorded to the competing claims for public resources.²²⁷

Such dilemmas are inherently unsolvable, but they plague the theoretical rationalizations of political actors at every point. They are worth noting, however, because they help us to see Congressional spending decisions as outcomes of a political process which attempts to come to grips with logical and organizational paradox through an unruly and divisive clash of heterogeneous interests. As such, the budgetary process in Congress provides the scholar with a focused and unequivocal intersection of critical theory and practical difficulty. Here, if anywhere, the organizational and political problems that plague the legislature should become evident; here, if anywhere, it should be possible to determine whether special or general interests have come to hold sway over the institution. The great problem is how to square a general doctrine concerned with the maximization of public goods with a kind of claim that essentially refers to allocation to particular sorts of individuals and groups, for purposes which may not be "public" at all. The budget process, through its very finality, displays the distribution of power and resources throughout the government and among its various clients more clearly than any other political activity.

Taken as a whole, the Federal budget is a representation in monetary terms of governmental activity. If politics is regarded in part as conflict over whose preferences shall prevail in the determination of national policy, then the budget records the outcomes of this struggle. . . . In the most integral sense, the budget lies at the heart of the political process.²²⁸

A history of budgeting and spending in Congress would be almost as voluminous as a history of Congress itself. Fortunately, in

this as in so many other areas of its institutional life, Congress made a great turn in the 1970s when it passed the Congressional Budget and Impoundment Control Act of 1974. The legislative history of this act, the reasons for which it was undertaken, and the institutional changes it wrought are all ground pretty well covered in other places.²²⁹ What we want to do here, then, is to review the major parts of the act as briefly as possible, describe the unalterable institutional constraints within which it operates, ask whether the reforms it embodies have succeeded in realizing the aims for which they were undertaken, and seek to discover whether it has the potential to restore Congressional power over the budget.

Prior to the passage of the 1974 Act, the budgetary process in Congress was beset with conflict and confusion. Alan Schick has referred to it as a war between the parts and the whole.²³⁰ Each year Congress would take the budget submitted to it by the President, chop it into small pieces, parcel these out through the committee and subcommittee system and wait until the end of the legislative session to find out what it had created. It was often the case that few within Congress were even aware of the emerging budget totals. Thus the decentralized legislative process resulted in a budgetary process that was merely the sum of a series of isolated, competing and unrelated actions.²³¹

Ellwood and Thurber discuss six kinds of politically important difficulty that followed from these chaotic practices. First was a tremendous growth in Federal spending and a ballooning national debt.

Second was the loss of direct Congressional control over spending levels occasioned by the widespread institutionalization of mandatory spending, i.e., an increasing percentage of Federal outlays could not be altered in a given year without changing the basic authorizing statute which had set up a particular spending program in the first place. Third, profound changes in the national economy had put an end to the constant, annual increases in revenues, forcing Congress to choose among alternatives, when it had grown accustomed to annual across-the-board increases in expenditures. This development was accompanied by radical change in the composition of the Federal budget itself, reflecting a shift in spending priorities as the percentages of the budget allotted to defense and to direct payments to individuals were roughly reversed.²³² Confronted with hard choices between defense and social programs, some reformers wanted to unify the budgetary process to clarify alternatives and make the difficult choices stand out against the background of overall budget totals. Fourth, the existing, uncoordinated budget process made it next to impossible for Congress to determine or to carry out a national fiscal policy. Fifth, in the face of a lack of budgetary information, Congress had to rely on the information supplied it by the OMB to help it evaluate the President's spending and programs. This left both political initiative and a monopoly on empirical information on the Executive side. Sixth, the impoundment of funds by the President, i.e., Mr. Nixon's refusal to spend money appropriated by Congress for specific programs, had assumed unprecedented dimensions after 1972, and threatened to

create a Constitutional crisis of its own as Members found the Congressional prerogative over taxing and spending threatened at its very roots.²³³

Perhaps we can fairly sum up these problems by saying that they were all manifestations of the institutional weaknesses of Congress, consequences of its chaotic and decentralized internal political processes, and of the elaborate division of responsibilities reflected in the organization of its committee system. Hence, the budget process established by the 1974 Act is an attempt to redress these problems and to serve as an integrating mechanism for the separate tax, appropriations and authorizations processes which continue to function on Capitol Hill.²³⁴ The new process purports to give Congress a comprehensive and consistent means of making fiscal choices and setting national priorities. Here are its purposes, according to the Act:

The Congress declares that it is essential: to assure effective Congressional control over the budgetary process; to provide for the Congressional determination each year of the appropriate level of federal revenues and expenditures; to provide a system of impoundment control; to establish national priorities; and to provide for the furnishing of information by the Executive branch in a manner that will assist the Congress in discharging its duties.²³⁵

In pursuit of these aims, the Act created three new institutions: The House and Senate Budget Committees, and the Congressional Budget Office. It also provided a new set of budgeting procedures, a timetable for budgetary actions and a change in the fiscal year, requirements for standardized budget terminology and

information for the president's budget, and provisions for controlling presidential impoundments.²³⁶

Ellwood and Thurber provide a succinct summary of the new process:

The new congressional budgetary process sets October 1 as the beginning of the fiscal year. On November 10 the president must submit a current services budget, and on the fifteenth day after Congress meets he must submit his budget. Congress must adopt at least two concurrent resolutions: one on or before May 15 (before revenue and expenditures bills have been passed) and the other by September 15 (after action has been taken on all appropriations bills). . . .

It is possible to break this timetable down into four general stages: (1) information gathering, analysis, preparation, and submission of congressional budget by Congressional Budget Office and budget committees (November 10 to April 15); (2) debate on and adoption of congressional budget by both houses and establishment of national spending priorities (April 15 to May 15); (3) enactment of spending bills (May 15 to early September); (4) reassessment of spending, revenue, and debt requirements in second budget resolution; enactment of reconciliation bill (September 15 to September 25).²³⁷

This brief sketch does little justice to the extent to which the new procedure embodies provisions designed to enable Congress to attain a complex set of aims. Despite widespread alarm over rising budget totals, the traditional functions of the allocations and appropriations committees, when combined with the perennial contest between hoarders and wasters, meant that Congress could not simply subscribe to a set of arrangements which explicitly favored spending cuts over increases:

To have done so would have curbed the legislative power of Congress by making future outcomes dependent on budget procedures rather than on majority will.²³⁸

Furthermore, member support for budgetary reforms was con-

tingent upon bipartisan support for such proposals. Hence, on Schick's analysis, the new process had to be neutral with respect to spending levels, and it attains this through the somewhat contradictory nature of the two budget resolutions. The first resolution lays out spending targets rather than ceilings, and preserves the power of the Appropriations Committees to determine specific program outlays. The second resolution applies to revenues as well as to spending, and once this has been adopted, Congress cannot take action that would raise spending above or lower revenues below the amounts fixed in the resolution. "By treating tax and expenditure legislation in the same way, Congress signified its intent to establish a process which would not foreordain any of its outcomes."²³⁹ Congress thereupon provided itself an escape hatch of the sort which any student of President Eisenhower's speeches might well admire: according to the rules, once the second resolution has been passed, Congress "cannot violate" its self-imposed budget restraint. Nevertheless, Congress "can revise" its budget decisions by adopting a new resolution at any time. This, I think, lets the horse out of the barn.²⁴⁰ What can "spending restraint" possibly mean if the Congress can raise totals whenever it desires?

So goes the script at any rate. Essentially, it attempted to improve Congressional control over budget matters by instituting a Budget Committee in each House that would have primary responsibility for overall coordination of the various spending proposals which arise from both the executive and legislative sides of the government. To

aid these committees in their tasks, the Congressional Budget Office was instituted to gather factual information and free Congress from its longstanding reliance on the executive branch for information and hard figures. These provisions and others, including the anti-impoundment measures, have been in place now for eight years, and it is possible to see whether the new institutions have succeeded in moving Congress smoothly through the pages of the script, and whether such movement may be sufficient to restore its lost control over spending. In general, the implementation process has had its ups and downs: conflict has arisen within the decentralized Congress, as any student of its history might expect, and Schick maintains that

. . . the new process enlarges the potential for conflict within Congress because it expands the scope of participation and compels Congress to make more explicit budget choices than before.²⁴¹

A full blown description and analysis of the new budget process and its various consequences would occupy considerable space. The legislative history of the 1974 Act is complex. The provisions of the Act are also complex, as are the relationships between those provisions and the intentions they attempted to embody. These factors would have to be placed in the context of a complex legislature which is rapidly changing, not only in terms of the composition of its membership but also with respect to its underlying consensus about basic spending priorities. Neither of these last two is uniformly reflected throughout the Congress to any degree. In addition to all this, there is the tangled web of interbranch relations explored by Wildavsky.

Rather than attempting to cover this extensive ground here, I will simply allude to some of the major problems which confront Congress with respect to taxing and spending issues, and note that while the short-term configurations of these dilemmas have been affected by the new legislation, the underlying context has been little changed.

First and most important, for Congress as for any political or legal agent, is retention of control over matters that lie within its jurisdiction. This has plagued the legislature since the last quarter of the nineteenth century, and attempts to solve it have followed one upon the other, at least since passage of the Budget and Accounting Act of 1921. At the present time, Congress is in danger of losing control over spending in two ways, both of which appear to be beyond the reach of the procedures instituted by the Budget Act. First, spending targets for a variety of programs are set within the executive branch before being gone over by members of Congress in various committees. Wildavsky has made it pretty clear that it is not only efficient, it is prudent to rely upon expenditure targets set by administrative agencies when their representatives have proven themselves competent and responsible.²⁴² Further, the most politically expedient method of computing various budget totals is to draw up and evaluate annual expenditures via an incremental procedure--i.e., adding or subtracting at the margins, based upon the preceding year's performance--rather than to completely evaluate all of the political justifications for a given program in a given year. Unless there is very good reason for thinking otherwise, it is safe to assume that the

reasons for the initial institution of a program still hold.²⁴³ Wildavsky claims that Members of Congress themselves, despite their highly developed capacities for specialization, have neither the time nor the expertise to exhaustively evaluate every spending proposal that emanates from within the bureaucracy. Iron triangles and sub-governments aside, then, the sheer complexity of these domains indicates that responsibility for spending targets be shared between those nominally charged with providing the money and those who are involved with its actual disbursement on a daily basis. Formally, this looks like a permanent loss of power for Congress, a loss which the new budget process has been but partially able to offset through the information-gathering powers of the CBO. Practically, such loss seems unavoidable. If it amounts to a "loss of control over the purse" for Congress, it is a loss which Congress has brought about for itself by virtue of its past spending decisions and of the organizational structures that are necessary to implement them. I can think of but a single possible method through which such "lost" power might be regained for the Congress: wipe the authorizing legislation off the books and dissolve the structures of implementation. Since neither Congress nor the American public would stand for this, the loss is as permanent as the political desire for the programs in question.

Thus we have a Congress which does not compute the budget by itself. At best, it arrives at spending projections in tandem with the bureaucracy. We could call this a loss of power through structural evolution.

The second kind of loss of Congressional control over spending levels may be more directly amenable to change by Congress than the first. This dimension is less a function of governmental structure than it is a matter of statutory requirement. The 1960s saw a profound change in national spending priorities as reflected in divisions of the budgetary pie. The relationship between spending for matters of national defense and spending for social welfare programs was roughly reversed. This is generally known as the "welfare shift." Many expenditures of the latter sort constitute what the literature has come to call "Mandated" spending because disbursements are made directly to individuals, and the focus of the enabling legislation is upon program goals instead of spending levels. Dennis Ippolito explains:

Entitlement programs mandate the payment of benefits to recipients who meet requirements established by law. (Indeed, a series of court decisions over the past two decades suggests that beneficiaries may have what amounts to a property right in their benefits.) The major portion of entitlement spending is accounted for by trust funds, such as social security, which are not subject to the annual appropriations process. Entitlements that come from general revenues usually require annual appropriations, but that is essentially a technicality; the legislation that created the program, not the appropriation, dictates the amount spent. As Congress has created and expanded this type of mandatory spending, the budgetary weight of entitlements has increased dramatically. In fiscal 1967 entitlements accounted for 37 percent of total outlays and about 60 percent of all uncontrollable spending. By 1980, entitlement spending was 60 percent of total outlays and almost 80 percent of all uncontrollable spending.²⁴⁴

What counts is that such programs are placed outside the purview of the new budget process. Further, it doesn't take a genius to

see that this raises absolute hell with fiscal policy. For those who believe that there is a connection between federal spending levels, interest rates, the cost of capital available for borrowing or investment in the private sector, and the necessity for policy flexibility with respect to this equation, the notion that such flexibility has become statutorily out of bounds nullifies one of the possible substantive consequences of the act and voids one of its essential aims. Ippolito ends his study of the budget process with an extensive list of suggestions for bringing spending levels under control, including the reevaluation of all entitlement programs, and even looks favorably upon a Constitutional Amendment to put limits on spending levels. His point is that the new budget process has failed, and he marshalls the truly amazing 1970s increases in spending totals that followed its adoption as supporting evidence.²⁴⁵ For Ippolito, then, the new process has failed to check the predilection of the authorizing committees: as these committees sought support for progressively higher appropriations, they took the position that an authorization should reflect the financial needs of a program and not the budgetary condition of the government.

But Ippolito cannot have it both ways: either Congress must have control over spending totals, or it cannot engage in making fiscal policy. Constitutional limitations on spending constitute a completely unprecedented kind of constrain upon Congressional action. In the final analysis, I fail to see how such formal limitations differ from the constraints imposed by mandatory spending itself:

with regard to fiscal consequences, how is it different to say that Congress must spend as opposed to saying that it must not spend? As presently constituted, then, Congress is not really free to decide what it will spend because so much of what it actually does spend is out of its hands to decide in a given year. From this tautology we get the following result: fiscal policy suffers. The practical effects of entitlement programs on Congressional freedom to decide are pretty much the same as those which would follow a Constitutional limitation on spending. At the same time, it should be clear that the realm of possibilities covered by the Budget Act is more restricted than first appears, but these are not deficiencies that can be traced back to the new budgetary process per se.

Therefore the first two problems confronting Congress, i.e., the role played by the bureaucracy in the accounting process, and the percentage of annual expenditures that has been made mandatory by statute, leave Congress little room to maneuver as it struggles to assert its prerogatives over budgeting and spending. Now a third difficulty facing the Members with respect to these issues is the conflict between the general and the particular as these are embodied by the appropriations and authorizations committees respectively:

Members of Congress respond to two sets of pressure when they act on authorization and appropriations. Through the authorizations process, Congress demonstrates its responsiveness to particular interests; through its appropriations decisions, Congress deals with the financial limitations of the federal government. The basic political conditions that led in the past to different authorization and appropriation outcomes have not been fundamentally altered by the budget process. The continuing gap reflects the ambivalence within

influence upon overall budget totals. Here the record is mixed. Any such increment in Budget Committee power necessarily would have to come at the expense of existing committee power centers. The Appropriations committees, for example, retain responsibility for individual spending measures, and struggles over turf with the new Budget Committees are common in both Houses. At the same time, however, the new committees have succeeded in making members of Congress in general more aware of the consequences which particular spending measures have for the overall budget.²⁴⁸ Further, there is increasing evidence of a dramatic dropoff in the creation of new entitlements since the implementation of the Act made their steadily climbing costs evident to everyone.²⁴⁹ Such changes reflect increased attention to budget figures at the expense of program needs and can be at least partially attributed to the new process. While the new Budget Act does not specifically take power away from the older committees, it has established new epicenters of power, and by making it necessary that the traditional institutions take the new ones into account, can be said to have further decentralized and complicated the Congressional budget process:

Prior to the Act, the parts of the budget were cordoned off from one another. Tax policy was made by a single set of committees; appropriations went through their own process; authorizations had their own committee roots and routes. The Budget Act means that there is hardly a single financial decision that can be made via one set of committees alone. Revenue decisions involve both the tax and the budget committees. The budget committees share spending power with the Appropriations Committees. The wills of all these committees have to be concerted in the development of the congressional budget.²⁵⁰

Congress on spending policy as well as tension between the two sets of committees. The conflict is strained by the budgetary role of Congress as both a claimant for funds and an adjudicator of budgetary claims. Through authorizations, Congress goes on record in support of specific programs; through appropriations, it decides the extent to which these claims are to be satisfied.²⁴⁶

This raises a complex and difficult issue: as I indicated earlier, a key fact about the new budget process for both Schick and Ippolito, is that even though spending and revenue ceilings and floors are set by the second budget resolution, Congress has the authority to alter them afterwards should it be so disposed. This may be a practical necessity, forced upon Congress by spending shortfalls, endemic conflict, or the logroll, but it makes logical nonsense of the thesis that the new process really contains enforcable or coercive stipulations over spending levels. Schick sees the matter in this way:

The act directs Congress to make peace through the channels and procedures of its new budget process. The Act facilitates the search by enabling a congressional majority to do whatever it wants to do. It can peg the budget numbers at any level it prefers and change them as often as it wishes. Whenever Congress can organize a majority in support of any budget position, it will be well on the road to budget peace. But what happens when Congress is so split and individual members cross-pressured that a majority cannot be mustered behind any overall course of action? We pose this question now to suggest that political strife within Congress rather than the "Rube Goldberg" design of the 1974 Budget Act represents the greatest threat to the hopes and survival of Congressional budget reform. Congress did no more than negotiate a treaty in 1974.²⁴⁷

It is therefore likely that Congress may find itself suspended between paralysis caused by internal conflict, and ever-rising spending levels adopted by its several parts at the behest of special interests--unless the new Budget Committees succeed in exerting real

All of this can be seen as the result of Congressional attempts to balance budget control with other legislative values, such as maintaining the role of the legislature as the representative of diverse interests. This is the perennially unresolvable tension.

Representation pulls Congress toward the fragmentation of power.

Budgeting's essential purpose is the coordination of many decisions.

The ultimate effects of the new process therefore depend not upon its efficiency, or its effects upon budget totals, but the extent to which it can maintain an uneasy balance between these conflicting impulses and needs.²⁵¹

These three factors, i.e., that Congress jointly computes program budget totals with the cooperation of executive branch agencies, that nearly 60% of total outlays are "uncontrollable," and that the centrifugal forces of the legislature are at odds with the basic requirements of budgeting, define and limit the scope of application of the Budget Act and its potential to increase the power of the Congress over the purse. In addition, there are a number of particular problems which must at least be mentioned if the Act is to receive a balanced evaluation, and if we are to decide whether it is likely to succeed or fail in realizing the purposes for which it was enacted. As we shall see, this is far from being a matter of making a straightforward evaluation.²⁵²

First, the Act was supported in its legislative phase by hoarders and wasters alike. Conservatives hoped it would serve as an instrument for the enforcement of fiscal restraint, Liberals hoped to

use it to shift spending priorities in favor of the poor and elderly, and to institute a more stimulative fiscal policy.²⁵³ Each side wrote its preferences into the Act, and saw what it wanted to see when it turned to examine the finished product: the permissive ones got targets in the first Budget Resolution, while the hardliners got ceilings in the second.²⁵⁴ Both conservatives and liberals have been disappointed by the budgetary turns Congress has taken since 1974. Conservatives bemoan the deficits; liberals the increased share of the overall budget going to the defense sector. Ippolito, a hoarder as anyone can see, holds that not only has the Budget Act failed to restrain Congressional spending, but also that further measures are urgently needed. He favors statutory or Constitutional limits on Congress's power to spend:

What is needed to bring Congressional spending under control is something that will control Congress's political weakness; clearly, the only way to combat this political weakness is less rather than more Congressional discretion over spending.²⁵⁵

Neither a contemporary liberal nor a Whig of the Federal period could agree with this. Ippolito would give up the most important power that the Constitution gives to Congress in order to save money. Perhaps this is the time for Congress to cash in its chips and get out of the game, but I don't think so. What counts in the moment, however, is not the potential controversy that might arise over Ippolito's views, but the simple fact that, along with many Members of Congress, his conclusion is based upon a long look at the budgetary figures themselves and what they reflect: rising expenditures, rising

deficits, an increasing percentage of federal outlays going for interest on the national debt, and rising interest rates.

Alan Schick takes a different approach. He looks not at the figures, but at the process itself. Does Congress keep to the schedule? Does it listen to its Budget Committees? Is the process of Congressional budgeting instituted by the act serving as the script that Congress follows on its way to making decisions? I suspect that Schick is a waster, but a very politic one. When given the opportunity to comment on the rising deficits and expenditures, he tends to look the other way. For Schick, it is erroneous to regard a budget process as a means of limiting the government's size or expenditures. Sixty years of presidential budgeting did not produce this result. Since a budget process is both an opportunity for claiming resources and a procedure for rationing limited resources among claimants, the process itself can result in higher expenditures or provide a mechanism for restraining the growth of government. Whichever side dominates depends on the political environment, and not the budget process itself. The budget process is neutral. Indeed, unlike Ippolito, Schick does not even decry the notion that so much of current government spending is "uncontrollable." Instead, he holds that mandatory spending is simply the result of a wilful decision by Congress to favor non-budgetary values over budgetary control. The balancing of budgetary and competing values is, for Schick, one of the major successes of the congressional budget process.²⁵⁶

Needless to say, this evaluation completely begs the question

of fiscal policy. Schick, no doubt, is aware of this. The process is neutral. Congress must retain its freedom to decide how to use it. The choice of ends varies with time and circumstance, but it ultimately is the result of a political process which Congress has been elected to carry out. This means that any possible evaluation of the budgetary process must be procedural rather than substantive, and his ultimate evaluation of the Act and its consequences unfolds entirely along procedural lines.²⁵⁷

Wildavsky's analysis is empirical and fraught with matters of detail. He appears to have no axe to grind. Both critics and defenders of the budget process have strong arguments and commitments. For Wildavsky, budgetary reform had its genesis in the tension between the particular and the general.

. . . legislators were unhappy with the collective consequences of their individual choices. They liked voting for spending but not for taxes. They got their way. . . . Individual members of Congress won but Congress as a whole lost; individual and collective rationality were at odds.²⁵⁸

Like Schick, he emphasizes that Congress is an independent body that operates in an environment of fragmented and dispersed power. It has many committees, not one, and these specialize precisely because detailed information is necessary if the collective body is to exercise budgetary control. This argument, we now know, was being made in Congress before 1800. But specialization breeds confusion, and if Congressmen confuse themselves they will not be able to act at all. Therefore, they need mechanisms to reduce the number of decisions to be considered at any one time. The new budget process,

then, can be seen as an effort to institutionalize aids to calculation.²⁵⁹ He also notes that the CBO has immeasurably strengthened the hand of Congress in its search for information.²⁶⁰

But information alone is not sufficient. Which information? Whose? For example, Congress as a whole has not yet been able to determine how to calculate the base or starting figures for a given year. The House Budget Committee has used a "chairman's mark," while the Senate Budget Committee under Muskie listed three possible indicators for action on any given budget item.²⁶¹ From the standpoint of establishing firm control over spending or fiscal policy, it is disheartening to consider that the range of the figures embodied by these starting points is quite large.

Nevertheless, there have been accomplishments, and Wildavsky discusses several. First, Congressional knowledge of economic management is much improved since passage of the Act,²⁶² for the body is now able to confront total figures in the budget resolutions. This means that Congressional understanding of the relationship between the size and makeup of the federal budget and the economy as a whole has become more sophisticated. Second, the process works: the deadlines have been met. This, as we saw, is the criterion most satisfying to Schick. Wildavsky then raises the question of substance. What have been the effects of the Act upon spending itself?

This question is more easily asked than answered. The difficulty is due not only to the short history of the reform but also to the requirement of estimating conditions that might have been (what would Congress have done without the reform?) but that now can never be. To know whether Congress

has decided differently, we have to know what it would have done had there been no reform. And by no means is it certain that everyone agrees on what the reform was supposed to have accomplished. For the precise purposes of the reform are not mere historical curiosities but objects of current contemplation. To say what the reform was intended to do is also to argue in favor of what it should now be doing.²⁶³

For the philosopher, this connection between an actual and a possible past could have interesting ramifications that go to the heart of what we mean when we say that any innovation "works" at all. Wildavsky, occupied with other matters, presses on. He notes that it would have been politically impossible to specify the size of budget deficits initially because specifying the size would have destroyed the possibility of high and low spenders reaching agreement.²⁶⁴ He also notes that the concept of strengthening Congressional "control" over the budget is itself problematic: obviously, Congress should get the spending it wants, rather than be constrained to operate within some predetermined level. Furthermore, control does not mean, for Wildavsky, that Congress is necessarily better able to prevail against the Chief Executive:

Interaction between Congress and the Executive Branch is so strong . . . that parts of each institution are likely to be allied against the other, and simple comparisons are suspect. Besides, the idea is to control the content of budgets, not merely to prevail over others, however foolish they may be.²⁶⁵

In general, he notes that without a central committee that controls all decisions, as on the Cabinet model, Congress has to choose which committees it will support. This is a political choice and one it must be free to make. The basic thrust of the reform was

that it would institutionalize and choose new committees of its own rather than rubber stamping those of the Executive. Whether Congress trusts itself enough to do this, or whether budgetary power will pass by default to the Executive Branch is now being determined.²⁶⁶

For Wildavsky, the Budget Committees have succeeded more in predicting outcomes than in influencing them.²⁶⁷ Their recommendations tend to be predictions about future Congressional actions. Since these committees know that other committees will not accept budget directives that change priorities radically, all they can do is content themselves with trying to create a sense of limits. As indicated earlier, this effort has been successful in changing the ethos of Members of Congress with respect to spending totals.

The great problem plaguing Congressmen today is the seeming size of the budget deficit. If Wildavsky is correct, the new process cannot be held directly responsible for rising deficits, though it may be judged guilty by association. The Budget Resolutions attempted to stipulate what will be spent and how large the deficits shall be. Clearly, the capacity to estimate accurately has a great deal to do with the fate of spending and deficit projections.²⁶⁸ If estimates are too low and supplemental appropriations turn out to be necessary, Congress must at the same time vote to increase the size of the deficits. The accompanying publicity unsettles those who may have to answer for such votes come election time. For this reason, the desire of Congressmen for stability in their contacts with executive branch agencies is on the increase--but the Budget Committees themselves do

not have stable memberships. Instead, HBC members can only serve four of every ten years. Wildavsky sums up the basic dilemma here:

People learn to play any system. The budget reform enables Congressmen to make intelligent decisions. There is a base; departures are identified; calculations are possible; votes are large enough in number to be discriminatory but not so large as to be overwhelming. Beyond this point, procedures can be permissive but they cannot be compelling. If the House and Senate Budget Committees stick to totals, they wonder if they are predicting rather than controlling expenditures. If they try to alter the character or composition of expenditures within totals, they threaten all power of other committees. Fiscal conservatives are unhappy because \$60 to \$100 billion deficits are not their idea of control. Liberal spenders complain because the Budget Committees are another obstacle to their desires. So it is not surprising that before Congress has totally tested this reform, new reforms to improve it are being proposed.²⁶⁹

Complicating the problem of estimates is the fact that we have entered a period of economic uncertainty in which neither revenue nor expenditure levels can be predicted with the accuracy of ten years ago. This leads to constant, incremental efforts to adjust the budget to fiscal reality as that reality changes over the course of a year. But this new necessity tends to reinforce the political predilections of Congress to ignore the ceilings stipulated by the two Budget Resolutions whenever these are perceived as inaccurate or inconvenient.

In general, then, an estimate of the efficacy with which the new budget process contributes to the wisdom with which Congress determines the financial affairs of the government depends first upon whether the observer is a hoarder or a waster, and second upon the extent to which that same observer thinks that the chaotic internal

processes of Congressional politics should determine budget outcomes. Clearly, statutory or Constitutional limitations would impose a partisan interpretation of historical necessity upon the long-range practices of an institution which was intended to engage in political action and set policy. As fiscal reality changes, so does the general sense of the country about what the ultimate spending priorities should be, i.e., whether the lion's share ought to go to the defense side or the social welfare side of the budget. The country reflects its sentiments through the instrument of the ballot, and the composition of Congress, not to mention its disposition, is affected accordingly.

Does this mean that we need to come away from a review of the new budget process with a sort of perspectival relativism? Do we just throw up our hands and say, "Where you stand depends upon where you sit?" Do the conceptual and procedural conundrums reviewed by Wildavsky finally come down to his saying that Congress might or might not succeed in centralizing its budget processes under the direction of the Budget Committees--but we can't tell yet, and, anyway, it's ultimately a matter of political will and political power? In a sense, yes. As I indicated earlier when I discussed Ippolito's proposal that mandatory spending and entitlement programs be sharply curtailed, the possibility of substantive change in our institutional arrangements is limited by the desire on the part of the American public for the programs embodied in current spending measures. Were one to approach this from the standpoint of the separation of powers

or of Congressional control over the purse, it is clear that the institutional framework has evolved such that the context within which such questions are posed has been profoundly changed. Take the separation of power, for example. The interbranch structure of subgovernments and iron triangles not only constitutes an elaborate system for the distribution of power, in part away from elected representatives, but also exists to serve needs of individuals throughout the wider society, needs which Congress has determined can be legitimately so served. Against this it is difficult to see how any argument might be raised--unless one were to claim that the political processes through which members of Congress are selected for office are themselves not legitimate.

There is, however, another question, one which has not been determined by the new budget process, but the outlines of which can be discerned through the new arrangements. This question concerns the gradual "bureaucratization" of the Congress, and Wildavsky touches upon it in his discussion of the Impoundment sections of the 1974 Act:

The issues brewing over impoundment are suggestive of a general executive-legislative clash. Part of this clash is over an Executive Branch perception that Congress is thought to be not only concerning itself with overall policy direction but increasingly dictating program composition and the day-to-day running of government. The Executive views this as impinging upon the flexibility of the Administration, stifling creativity under the guise of control. Congress' general distrust of the Executive and especially the OMB comes at a time when government is getting more complex. A fear inherent in this distrust, voiced by both Congressional and Administrative sources, is that as Congressmen take on an increasingly activist orientation, they will spread themselves too thin and be forced to rely increasingly on staff; the trend would lead to the gradual bureaucratization of Congress.²⁷⁰

Obviously, this is the perspective of Members of Congress who are beginning to sense that matters are getting out of control. This is, and has been, our position throughout this dissertation. American institutions are undergoing a period of evolution as rapid as that being undergone by certain sectors of American industry. While this is hardly the place to chronicle the possible causal relations that hold between the evolution of technological instruments and industrial forms within the economy, and the simultaneous explosion in the numbers and power of unelected servants throughout the government, we can recall the basic tenet about public space and political change. When substantial alterations are undertaken in the institutional arrangements of power and the society in question is a polity, then alterations of such magnitude ought to be taken up and considered, in public, through the political process and made subject to deliberations and decisions by the representatives of the people. But this isn't happening. Is the United States a "polity?"

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- ⁵Ibid., p. 147.
- ⁶Ibid. See also: Robert L. Peabody "House Party Leadership in the 1970s," in: Dodd and Oppenheimer (eds.), p. 147.
- ⁷Lawrence Dodd and Bruce Oppenheimer, "The House in Transition," In: Dodd and Oppenheimer (eds.), p. 37.
- ⁸Davidson and Oleszek, p. 35.
- ⁹Ibid., p. 39
- ¹⁰Ibid., p. 40.
- ¹¹Ibid., p. 41.
- ¹²Ibid., p. 43.
- ¹³Ibid.
- ¹⁴Ibid., p. 43.
- ¹⁵Ibid., p. 44. See also Fenno, p. 136.
- ¹⁶Davidson and Oleszek, p. 44.
- ¹⁷Ibid., p. 45.
- ¹⁸Ibid., p. 46. For a good short history of the activities of the DSG, which covers their activities in more detail than I have time or space for here, see: Arthur G. Stevens, Jr., Arthur H. Miller and Thomas E. Mann, "Mobilization of Liberal Strength in the House, 1955-1970: The Democratic Study Group," In: Peabody and Polsby (eds.), pp. 71-97.
- ¹⁹Ibid., p. 47.

²⁰Ibid.

²¹Fiorina, 1977, p. 64.

²²Davidson and Oleszek, p. 48.

²³Congressional Quarterly, p. 159. See also Dodd and Oppenheimer, p. 41.

²⁴Davidson and Oleszek, p. 48.

²⁵Ibid., p. 49.

²⁶David E. Price, "Congressional Committees in the Policy Process," In: Dodd and Oppenheimer (eds.), pp. 175, 177

²⁷Davidson and Oleszek, p. 50.

²⁸Ibid., p. 53.

²⁹Ibid., p. 55. See also: Price, p. 175ff; Dodd and Oppenheimer, p. 41ff; Fiorina, 1977, pp. 62ff. This is sufficient evidence to claim that "subcommittee government" is a commonplace.

³⁰See also Fiorina's discussion, 1977, pp. 64-67.

³¹Price seems to hold a contrary view--or at least provides evidence for one. See his discussion, pp. 177, 179.

³²Davidson and Oleszek, p. 55.

³³Ibid.

³⁴Davidson and Oleszek, p. 57.

³⁵Ibid., p. 11.

³⁶Ibid., p. 55.

³⁷Ibid., p. 57.

³⁸Ibid., p. 65.

³⁹Ibid., p. 79.

⁴⁰Ibid.

⁴¹Ibid.

⁴²Ibid., p. 82.

⁴³Ibid., p. 68.

⁴⁴Ibid., p. 71.

⁴⁵Ibid., p. 73.

⁴⁶Ibid., pp. 250-251.

⁴⁷Ibid., p. 212.

⁴⁸Ibid., p. 263.

⁴⁹Dodd and Oppenheimer, p. 38.

⁵⁰Fiorina, 1977, p. 64.

⁵¹Davidson and Oleszek, p. 203.

⁵²As I read it, this is the essence of Davidson and Oleszek's chapter, "Committee Work: The Fine Tuning." Ibid., pp. 153-192. See also their discussion of special interests, p. 186.

⁵³Ibid., p. 190.

⁵⁴Albert D. Cover and David R. Mayhew, "The Decline of Competitive Congressional Elections," In: Dodd and Oppenheimer (eds.), p. 80.

⁵⁵Fiorina, 1977, pp. 72-73. One finds important support for the most crucial idea expressed here in David Mayhew, p. 27: In searching for the proper analytic unit through which to study Congress, Mayhew says, "we are left with individual congressmen, with 535 men and women rather than two parties, as units to be examined. . ."

⁵⁶Mayhew, p. 13.

⁵⁷Ibid., p. 146, n. 133.

⁵⁸Ibid., p. 7.

⁵⁹Ibid., p. 15.

⁶⁰Ibid., p. 26.

⁶¹Fiorina, 1977, p. 89.

⁶²Ibid., p. 36. See also: Price, p. 162.

⁶³The literature on the incumbency advantage groweth copious and rife with controversy. See: Melissa P. Collie. "Incumbency, Electoral Safety, and Turnover in the House of Representatives, 1952-1976." APSR. Vol. 75, no. 1 (March, 1981), pp. 119-131. See also: Thomas E. Mann and Raymond E. Wolfinger, "Candidates and Parties in Congressional Elections," pp. 617-632; and Barbara Hinckley, "The American Voter in Congressional Elections," pp. 641-650. Both appear in APSR, Vol. 74, no. 3 (September 1980).

⁶⁴Fiorina, 1977, pp. 39-40.

⁶⁵Mayhew, p. 49.

⁶⁶Ibid., p. 52.

⁶⁷Ibid., p. 53.

⁶⁸Ibid., pp. 54-55.

⁶⁹Ibid., p. 56. On the intensity of their commitment to obtaining local spending projects, see: R. Douglas Arnold. "The Local Roots of Domestic Policy." In: Mann and Ornstein (eds.), p. 251.

⁷⁰Mayhew, p. 74. Districts are not only internally heterogeneous, they are fluid and have been known to move about. It is clear that the courts have begun to usurp the traditional prerogative of legislatures to set district lines. In so doing they have lately abandoned the one-man/one-vote formula of Reynolds vs. Simms and moved to take up the spatial distributions of minority blocs and minority votes which became the issue in Westberry vs. Sanders. The question of representation becomes increasingly murky. See: Charles S. Bullock III. "The Inexact Science of Congressional Redistricting." In: PS, Vol. 15, no. 3, pp. 435-6.

⁷¹Mayhew, p. 82.

⁷²Ibid., pp. 87-91.

⁷³Fiorina, 1977, pp. 8, 11, 50.

⁷⁴Price, p. 162.

⁷⁵Mayhew, 1977, p. 92.

⁷⁶Ibid., p. 95.

⁷⁷Ibid., p. 94.

⁷⁸Among those who use this term, see: Cooper and West, pp. 97-98; Price, p. 161; and Roger Davidson, p. 109.

⁷⁹Thomas E. Mann, "Elections and Change in Congress." In: Mann and Ornstein (eds.), p. 53.

⁸⁰Robert L. Peabody, "House Party Leadership in the 1970s," In: Dodd and Oppenheimer (eds.), p. 138.

⁸¹Mayhew, 1977, pp. 105-106.

⁸²Cooper and West, p. 96.

⁸³Ibid., pp. 100-101.

⁸⁴Ibid., p. 91.

⁸⁵See also: Dodd and Oppenheimer, p. 33.

⁸⁶Norman J. Ornstein, "The House and Senate in a New Congress," In: Mann and Ornstein (eds.), p. 377.

⁸⁷Burdette Loomis, "Congressional Caucuses and the Politics of Representation," In: Dodd and Oppenheimer (eds.), p. 216.

⁸⁸Fiorina, "Congressional Control of the Bureaucracy: a Mismatch of Incentives and Capabilities," In: Dodd and Oppenheimer (eds.), p. 345.

⁸⁹Cover and Mayhew, p. 80.

⁹⁰Mann, p. 39. With regard to legislating, Mann says, "The important change that has taken place is . . . that the conditions favoring individualistic politicians have become even more prevalent now than in the past."

⁹¹Mayhew, p. 110.

⁹²Ibid., p. 111.

⁹³Ibid., p. 115.

⁹⁴It is important to note that I am not saying that neither the Congress nor the public are ever moved on great national issues. In times of crisis, Congress and the public respond readily and well. Watergate is one example. Another may be the emerging national consensus on spending priorities in the context of deep economic difficulties. The jury is still out on this.

⁹⁵Ibid., p. 116.

⁹⁶Fiorina, 1981, pp. 339-340.

⁹⁷Mayhew, 1974, p. 121. Fiorina puts this the other way around: if the district is unaffected by a given piece of legislation, the member is then free to consider the general welfare. See: Fiorina, 1977, p. 41.

⁹⁸John F. Manley, "The Conservative Coalition in Congress," In: Peabody and Polsby (eds.), pp. 97-98.

⁹⁹Cooper and Brady, pp. 419-420.

¹⁰⁰Manley, pp. 103-104.

¹⁰¹Charles L. Clapp, The Congressman: His Work as He Sees It, (Garden City, New York: Doubleday), 1963, p. 146.

¹⁰²By Barbara Sinclair, see the following: "Coping with Uncertainty: Building Coalitions in the House and the Senate," In: Mann and Ornstein (eds.), pp. 178-223; "Agenda and Alignment Change: The House of Representatives, 1925-1978." In: Dodd and Oppenheimer (eds.), pp. 221-246; "The Speaker's Task Force In the Post-Reform House of Representatives," APSR, Vol. 75, No. 2 (June 1981), pp. 297-410.

¹⁰³Sinclair, 1981c, p. 181. See also Aage R. Clausen, How Congressmen Decide: A Policy Focus, (New York: St. Martin's, 1973).

¹⁰⁴Sinclair, 1981c, p. 182.

¹⁰⁵It is a commonplace that party influence is in decline in Congress. See for example, Brady and Bullock, p. 187. "... 1932-1978 shows a continuous decline in levels of party voting." Aaron Wildavsky notes that, "Regional cleavages show signs of displacing party." See Aaron Wildavsky, The Politics of the Budgetary Process, (3rd edition), (Boston: Little Brown, 1979), p. 268.

¹⁰⁶Sinclair, 1981c, pp. 183-190.

¹⁰⁷Ibid., pp. 184-185.

¹⁰⁸Sinclair, 1981b, pp. 238ff.

¹⁰⁹Ibid., pp. 221-222.

¹¹⁰Sinclair, 1981c, p. 200.

111Ibid., p. 204.

112Ibid., p. 213.

113Ibid., p. 215.

114Ibid., p. 216.

115Ibid.

116See: Wildavsky, p. 51. "... the role of defender [of appropriations bills] also has its roots in the respect for expertise and specialization in Congress, and the ensuing belief that members who have not studied the subject should not exercise a deciding voice without the presence of overriding considerations. An appeal to this norm is usually sufficient to block an attempt to reduce appropriations, as Senator Douglas has discovered many times. Appropriations Committee members, McKellar cried on one occasion, had "worked almost like slaves on the bill . . . Here at the last moment comes an amendment offered by a Senator who has not taken part in any hearings."

117Sinclair, 1981c, p. 218.

118Ibid.

119Ibid., p. 218.

120The situation is not quite so fragmented in the Senate, which has a smaller number of members who represent larger districts. See: Donald R. Matthews. "The Folkways of the Senate." In: Raymond R. Wolfinger (ed.), Readings on Congress. (New York: Prentice-Hall), 1971. "No man," one highly placed staff assistant says, "can really be successful in the Senate until he has adopted a national point of view. Learning what the other Senators' problems are and working within this framework to pass legislation gives him this outlook. If he assumes that everyone thinks and feels the same way he and his constituents do, he will be an ineffective legislator."

121Cooper and Brady, p. 413.

122Ibid.

123Loomis, p. 207.

124Fiorina, 1977, p. 100.

125Cooper and Brady, p. 414.

¹²⁶Brady and Bullock, p. 202.

¹²⁷Dodd and Oppenheimer, p. 32.

¹²⁸Brady and Bullock, p. 200.

¹²⁹Loomis, pp. 204-220.

¹³⁰Ibid., p. 205.

¹³¹Ibid., p. 206.

¹³²Ibid., p. 210.

¹³³Ibid., pp. 211-217.

¹³⁴Ibid., pp. 208-209.

¹³⁵Ibid., p. 207.

¹³⁶Dodd and Oppenheimer, pp. 45-46.

¹³⁷Brady and Bullock, p. 201.

¹³⁸Elizabeth Drew, Senator, (New York: Simon and Schuster, 1978, 1979), p. 45.

¹³⁹Cooper and West, p. 90.

¹⁴⁰Fenno, pp. 15, 81. See also Michael J. Malbin, "Delegation, Deliberation and the New Role of Congressional Staff," in Mann and Ornstein (eds.), p. 172. "Most people are inclined to avoid conversing or debating with those with whom they disagree. One of the most important strengths of Congress over the years has been the way its structure has encouraged people to engage in a process that most people naturally prefer to avoid. While party discipline has tended to stifle this process in other countries, Congress's procedures have been designed to encourage, inform and structure communication among the members in ways that would both promote deliberation and discourage longstanding resentments. That was the real reason for allowing closed committee meetings and for the elaborate rules of courtesy governing debate. In recent years, however, the members have weakened the procedures designed to protect their ability to debate and deliberate freely. Debate and discussion have lost their central place in the legislative process, and that loss has had serious consequences."

¹⁴¹Fiorina, 1977, p. 73.

142Oppenheimer, p. 275.

143Ibid., p. 292.

144Fiorina, 1977, p. 83.

145Roger Davidson, p. 130.

146Donald D. Morgan, Congress and the Constitution: A Study of Responsibility, (Cambridge, Mass.: Harvard Univ. Press, 1966), pp. viii-ix.

147This is the interpretation of Bruce Oppenheimer. See "The House in Transition: Change and Consolidation." in: Dodd and Oppenheimer (eds.), p. 278.

148Like every other section of the present dissertation, this, too, could expand to become a thesis of its own. There are three sources upon which I will rely heavily in the following account: Dodd and Schott; Michael J. Malbin and J. McIver Weatherford. Other sources will be brought in when helpful.

149Max Weber, Economy and Society, Guenther Roth and Claus Wittich (eds.), (Berkeley: Univ. of California Press, 1978), Vol. 2, pp. 973-974.

150Ibid., p. 974.

151Budgeting requires coordination between the parts and the whole. It was thought that the executive branch could better control and constrain the centrifugal impulses of Congress. For statements about the Act itself, or summaries of what has remained a persistent dilemma, see: Galloway, p. 213; Davidson and Oleszek, p. 122; Dodd and Schott, pp. 78-80; Wildavsky, pp. 223-224; Alan Schick, Congress and Money: Budgeting, Spending and Taxing, (Washington, D.C.: The Urban Institute Press, 1980), pp. 7, 21; Dennis S. Ippolito, Congressional Spending: A Twentieth Century Fund Report, (Ithaca, New York: Cornell Univ. Press, 1981), p. 46. See also: James O'Connor. The Fiscal Crisis of the State. (New York: St. Martin's, 1973), pp. 74-75.

152During the process of conducting personal interviews on Capitol Hill in the Spring of 1973, I was told this, or similar versions, of the story by both members of Congress and their staffs. One longtime committee staff member told me, "Congress gave away the ballgame with the Budget and Accounting Act of 1921." The issue, in the Spring of 1973, was the impoundment crisis which threatened to become Constitutional until it was superceded by Watergate. Both the conflict and its resolution were important because of what they can

show us about the powers of the Congress--as opposed to the Presidency--in ordinary times.

¹⁵³Theodore Lowi. "Four Systems of Policy, Politics and Choice." Public Administration Review, Vol. 32, No. 4 (July/August, 1972), pp. 298-310.

¹⁵⁴Ibid., p. 299.

¹⁵⁵Ibid.

¹⁵⁶Dodd and Schott, Congress and the Administrative State.

¹⁵⁷Ibid., p. 8. We can find independent verification of this turn-of-the-century development in Weber's work, for he analyzes the forces which simultaneously eroded party power in the U.S. and resulted "inescapably in a bureaucracy of the European kind." See Weber, p. 1398. See also: Ippolito, pp. 44-45.

¹⁵⁸Dodd and Schott, p. 38.

¹⁵⁹Ibid., p. 92.

¹⁶⁰Ibid., p. 95.

¹⁶¹Ibid., p. 97.

¹⁶²Ibid., p. 98.

¹⁶³Wildavsky, p. 26.

¹⁶⁴Ibid., p. 103.

¹⁶⁵Ibid., p. 112.

¹⁶⁶Ibid., p. 125.

¹⁶⁷Ibid., p. 128.

¹⁶⁸Ibid.

¹⁶⁹Ibid., p. 130.

¹⁷⁰Ibid., p. 152.

¹⁷¹Ibid., p. 155.

¹⁷²Ibid., p. 280.

¹⁷³Ibid., p. 275. See also Dodd and Oppenheimer, p. 46. ". . . the nature of committee leadership has changed. The power of subcommittee chairs rests not on their ability to balance numerous contending interests, but on their attention to a few particularized policy areas. As a result, there is considerable pressure for subcommittee chairs and members to be policy entrepreneurs who take a few narrow policy areas as their personal concerns, develop expertise in these areas, and build careers tied to narrow clientele groups.

¹⁷⁴Dodd and Schott, p. 313.

¹⁷⁵Ibid., p. 314.

¹⁷⁶This is their central and recurring theme. See pp. 173, 217, 224, 257-8, 280, 307.

¹⁷⁷Ibid., p. 326.

¹⁷⁸See Dodd and Oppenheimer on this point, p. 49. ". . . the rise of subcommittee government has altered considerably the character of House decisionmaking. This change has brought more members into the policy process, opened the possibility of policy innovations from a wider range of members, and probably increased legislative expertise in the House. But it has had its costs too. Problems have been created that, if left unresolved, could cripple the legislative process.

At its heart, subcommittee government creates a crisis of interest aggregation in the House." In: Dodd and Oppenheimer (eds.), p. 49.

¹⁷⁹Ibid., p. 379.

¹⁸⁰See: Davidson and Oleszek, p. 219.

¹⁸¹See: I.M. Destler, "Executive-Congressional Conflict in Foreign Policy: Explaining It; Coping With It," In: Dodd and Oppenheimer, p. 298. "The typical pattern [of relations between executive and legislative branches] is policy advocates in one branch working with allies in the other against executive and legislative officials with opposing views."

¹⁸²Dodd and Schott, pp. 341ff. See also: Roger Davidson, p. 111.

¹⁸³Dodd and Schott, p. 342.

¹⁸⁴Ibid., p. 350.

¹⁸⁵Time and space prevent any extensive treatment of the difficulties attending Congressional oversight activities, but there is a

considerable professional literature on this area. Dodd and Schott discuss, pp. 212-275; see also: William P. Schaefer, "The Legislative Veto and the Paradox of Congressional Oversight," Paper presented at the Annual Meeting of the American Political Science Association (New York: September 3-6, 1981).

¹⁸⁶Dodd and Schott, p. 350.

¹⁸⁷Fiorina, 1977, p. 49.

¹⁸⁸Weber, Vol. 2, pp. 1399-1400.

¹⁸⁹Dodd and Schott, p. 314.

¹⁹⁰Malbin, 1980, p. 10.

¹⁹¹Ibid.

¹⁹²Ibid., p. 13.

¹⁹³Ibid., p. 6.

¹⁹⁴Ibid.

¹⁹⁵Ibid., p. 11.

¹⁹⁶Ibid., p. 12.

¹⁹⁷Ibid., pp. 13-14. Note the implications this has for coalition building; each member with his own ends.

¹⁹⁸Ibid., pp. 19-20.

¹⁹⁹Ibid., p. 27.

²⁰⁰See Malbin's discussion, Ibid., p. 28.

²⁰¹This is a major question. If the entrepreneurial staff causes problems and the professional staff does not, why not recommend that Congress hire all and only professional staff? It is clear that, in some ways, Malbin would favor such a solution to staff problems, because we have reached the point where staff is indispensable to the functioning of Congress. See his review of the work of the professional staff of the Joint Committee on Taxation as it functioned under the tutelage of one Laurence Woodworth who served as its chief of staff, 1966 to ca. 1978. (Ibid., pp. 170-187.) Here we find historical evidence for the plausibility of what might be seen as an ideally functioning Congress: the staff was profoundly non-partisan. It served as a buffer between the individual members and outside

pressures from lobbyists, the Treasury department, and other powerful individuals and committees throughout both Houses. It excelled in the art of political compromise, embodying conflicting impulses and needs in highly complex and detailed tax legislation that earned the widespread respect and trust of members from both sides of the aisle and which thereby protected this area of Congressional responsibility from the predations of other branches of government. As a consequence, the other branches found their lines of activity very strictly prescribed and there is comparatively little recent evidence of presidential attempts to write tax law.

In this most difficult and sensitive of political areas, the Joint Committee on Taxation was able to negotiate volatile political minefields for an extended period, raising neither ire nor enmity, and even professional special-interest lobbyists abided by its decisions in good faith, knowing that the staff understood the likely political and financial consequences of their proposals better than they themselves. Of course, this extraordinary performance had a great deal to do with the expertise of Woodworth and the non-partisan spirit in which he worked. It also had a great deal to do with the bipartisan spirit of cooperation which characterized the daily contacts between the committee chairmen involved and the ranking minority members. Bright enough to embody genuine compromises in complex tax provisions, Woodworth was able to satisfy all parties, and seems to have been the key figure in the lengthy and highly successful run which the Joint Committee enjoyed.

Were one to propose the Joint Committee on Taxation, as it existed during Woodworth's tenure, as a model for the smooth meshing of Congressional and staff functions, however, one would undoubtedly run into the strongest objections imaginable. First, believers in representation might say that the figure of Laurence Woodworth who was, after all, a salaried employee of the committee, had no business virtually dictating tax provisions to the elected representatives of the people. What counts, on this view, is neither the relative complexity of the issues involved nor the level of expertise needed to solve them. "Experts," in fact, are frequently seen as dangerous emissaries of alien and elitist powers which would control the innocent people by plunging them into thickets of abstract complexity and abandoning them there in the dark, before retiring to wait in silence until the cries of the bewildered should summon their triumphant return. Those who shy away from the Laurence Woodworth's of this world prefer to have their political decisions unalloyed by the input of the intelligentsia, and seek political solutions cut from the solid denims and polyesters that the folks back home would recognize. Perhaps there is something to be said for this view; perhaps we would be better served were the interests and rhetorical positions of such Senators as, say, Jack Kemp or Edward Kennedy to be embodied in our tax provisions--but this would beg the entire question of the possible unintended consequences which so often follow the application of sweeping generalizations to such highly complex and delicate mecha-

nisms as the national economy and its sensitivity to the taxing powers of the state.

The second kind of probable objection is related to that of representation but different in focus: what happens to political heterogeneity when the Congress finds itself working together in a non-partisan and incrementalist spirit? Clearly, the broad sea-changes in political thinking and values which sweep this country periodically would find no place there. The ebbs and flows of power, the emergence of new interests and the inevitable demise of old ones might go unreflected there. The politics of the United States would not appear in microcosm in the halls of the Capitol, were partisan positions abjured and substantive conflicts of political interest hidden behind the decisions of experts. Woodworth, in effect, ran his staff--and often the Joint Committee--through a kind of politics of adjudication. But the Congress is about a politics of conflict and compromise, and there are a host of legislative areas which the present membership defines as arenas for the articulation and satisfaction of special needs and particular points of view, arenas in which real changes in existing political and economic alignments are sought and attained. To disregard this political reality and the actual opinions of many of the men now sitting in Congress would be to make the age-old mistake of elevating theory over men, and principle over history. It would amount to an effort to overcome or to ignore politics while affecting an exaggerated concern for it. Desirable, efficient, harmonious and competent as the Joint Committee on Taxation may have been, then, we cannot recommend it as a realistic model for the ways in which Congress might function. Again we must return to the basic fact about our legislature: it simultaneously embodies a number of theories and kinds of political aspiration, and is also the arena in which competing, concrete and practical views of reality, politics and economic justice come together and struggle.

202Ibid.,

203Ibid., p. 43.

204Ibid., p. 44.

205Ibid., p. 76.

206Ibid., p. 116.

207Ibid., p. 128.

208Ibid., p. 151.

209Ibid., p. 207.

210Ibid.

²¹¹Ibid., p. 45.

²¹²For anyone who has worked carefully through Weber's writings on bureaucracy, a strictly defined claim that Congress is becoming "bureaucratic" is not sustainable. There are too many crucial differences: the Congressional hierarchy is political, not formal; members of Congress attain both their seats and any subsequent position of higher influence with the body by election, rather than appointment; the Congressional hierarchy still contains positions of "status honor" within it. [See Weber, Vol. 2, p. 975.] Most important, a priori calculations of the outcomes of Congressional debates, that is, calculations possible only if the rules are known in advance, are impossible as should be clear from our discussion on the difficulties of consensus-building. At the same time, however, as the twentieth century moves onward, more and more of the characteristics that Weber attributes to bureaucratic modes of organization seem to be cropping up in Congress itself.

²¹³Wilson, pp. 279-280.

²¹⁴Weatherford, p. 51.

²¹⁵Ibid., p. 53.

²¹⁶Ibid., pp. 60-61.

²¹⁷Ibid.

²¹⁸Ibid., p. 86.

²¹⁹Ibid., p. 88.

²²⁰Ibid., p. 155.

²²¹Ibid.

²²²Ibid., p. 98.

²²³Malbin, pp. 206-209.

²²⁴Representative H.R. Gross, addressing his colleagues at the hour of passage of the Congressional Budget and Impoundment Control Act of 1974. 18 June, 1974. Cited in: Ippolito, p. 221.

²²⁵Dante, *Inferno*, Canto VII, 25-35. (John D. Sinclair, trans.) (New York: Oxford University Press, 1961), pp. 99-101.

²²⁶Wildavsky, p. vii.

227Schick, 1980, p. 6.

228Wildavsky, pp. 5-6.

229See: Ippolito; Schick; Wildavsky; John W. Ellwood and James A. Thurber, "The Politics of the Congressional Budget Process Re-Examined," In: Dodd and Oppenheimer (eds.), pp. 246-275.

230Schick, 1980, p. 6.

231Ellwood and Thurber, p. 248.

232Schick makes the same point, 1980, p. 7.

233Ellwood and Thurber, pp. 248-250. See also: Joseph W. Martin, "Impoundment: A Case Study in Congressional Inefficacy." (1974). Mss. on file, Department of Political Science, University of Massachusetts, Amherst, Mass.

234See Schick for a thorough account of these processes and their interrelationships.

235Wildavsky, p. 226.

236Ellwood and Thurber, p. 253.

237Ibid., p. 253.

238Schick, 1980, p. 237.

239Ibid.

240See also: Alan Schick, "The Three Ring Budget Process: The Appropriations, Tax and Budget Committees in Congress," In: Mann and Ornstein (eds.), 1981, p. 312.

241Schick, 1980, p. 80.

242See also: Schick, 1981, p. 315. "The primacy of the president's numbers persists during the markup of appropriation bills."

243Wildavsky. See his discussion, pp. 163-165 for a typical example of his treatment of such matters.

244Ippolito, p. 213.

245Ibid., pp. 242-262.

- ²⁴⁶Schick, 1980, p. 179; Wildavsky, pp. 223ff.
- ²⁴⁷Schick, *Ibid.*, p. 2.
- ²⁴⁸*Ibid.*, p. 112.
- ²⁴⁹Ellwood and Thurber, p. 268.
- ²⁵⁰Schick, 1980, pp. 80-81.
- ²⁵¹Schick, 1981, p. 325.
- ²⁵²Wildavsky, p. 252.
- ²⁵³Ippolito, pp. 198-199; 244.
- ²⁵⁴Schick, 1980, p. 568.
- ²⁵⁵Ippolito, p. 249.
- ²⁵⁶Schick, 1980, pp. 570-571.
- ²⁵⁷*Ibid.*, p. 573ff.
- ²⁵⁸Wildavsky, p. 223.
- ²⁵⁹*Ibid.*, p. 225.
- ²⁶⁰*Ibid.*, p. 253.
- ²⁶¹*Ibid.*, p. 237.
- ²⁶²*Ibid.*, p. 249.
- ²⁶³*Ibid.*, pp. 251-252. Emphasis added.
- ²⁶⁴*Ibid.*, p. 252.
- ²⁶⁵*Ibid.*, p. 253.
- ²⁶⁶*Ibid.*, p. 254.
- ²⁶⁷*Ibid.*, p. 258.
- ²⁶⁸See Malbin, 1980, p. 196 for a brilliant discussion of this problem.
- ²⁶⁹Wildavsky, p. 268.

²⁷⁰Ibid., p. 241.

CHAPTER V

CONCLUSIONS

He that goeth about to persuade a multitude, that they are not so well governed as they ought to be, shall never want attentive and favourable hearers; because they know the manifold defects whereunto every kind of regiment is subject, but the secret lets and difficulties, which in public proceedings are innumerable and inevitable, they have not ordinarily the judgment to consider. And because such as openly reprove supposed disorders of state are taken for principal friends to the common benefit of all, and for men that carry singular freedom of mind; under this fair and plausible colour whatsoever they utter passeth for good and current. That which wanteth in the weight of their speech, is supplied by the aptness of men's minds to accept and believe it. Whereas on the other side, if we maintain things that are established, we have not only to strive with a number of heavy prejudices deeply rooted in the hearts of men, who' think that herein we serve the time, and speak in favour of the present state, because thereby we either hold or seek preferment; but also to bear such exceptions as minds so averted beforehand usually take against that which they are loth should be poured into them.

Richard Hooker
Laws. 1: 148
1594

1.1] What is a public space? Why do we need one? How should it be used? For what should it be used? These are some of the questions which I have tried to illuminate throughout the foregoing. In turning to the matter of conclusions, however, I find it impossible to bow to the ordinary convention and present a set of systematic and interrelated arguments along which I could array my central findings like fish on a string. Instead, I'm going to follow Aristotle's own methods here, and simply indicate, through a series of numbered

paragraphs, some of the difficulties to which some of my central concepts seem to give rise. In no case do I think it possible to arrive at exhaustive or complete definitions of basic concepts, nor do I think it is possible to discover arguments for following or not following certain courses of action; arguments that would have universal validity. Instead, we live, as I've tried to point out here, in a particular historical moment, in the context of political institutions that are in part derived from and in part illuminate a tradition of discourse and thought about politics that I have called the republican political tradition. In line with this tradition and its intentions, I think that the following should be seen as areas of central concern for those who would strengthen or perhaps reform the institutions of the present government of the United States--or criticize them along traditional lines.

1.2] Of the three central concepts in this thesis, public space, citizen and common interest, the key now seems to be the common interest. This is so because it is only through a developed notion of the truly common that it is possible to reflect critically upon what citizens in public spaces may actually be doing, and therefore to decide whether special interests are in fact prevailing over general interests. If we find citizenship and participation actually working to promote the goals of partial interests--as seems to be the case with Congress today--then it is possible to say that the public space is not giving birth to that issue for which it was originally conceived, and that therefore, by a kind of teleological argument,

Congress is not really a public space. But such an argument from consequences depends upon the coherence of the concept "public or general interest."

2.1] What arguments of the preceding sort indicate, however, is that the "common interest" now stands in the position that other kinds of "transcendental argument" have occupied in alternative theories of political life. It has been the case for most thinkers in most places that some kind of standard of morality or justice external to politics and to daily political life had to be invoked in order to make some kind of meaningful evaluation of that life possible. In attempting to restrict such crucial standards to the political actions of a given polity, both Aristotle and Machiavelli willingly ran the risk of making it impossible to find some court of appeal outside of whatever the constitutionally legitimate ruling group might decide to do--as long as that group held its power by virtue of a mixed government or constitution. Alternative approaches to theirs have rested upon such notions as that of "God" or "Natural Law," and the historical stage is now, in our time, taken up with the notion of "Universal Human Rights." The first two have been rather thoroughly demonstrated by philosophers to be incoherent and the third, I suspect, will be liable to similar critiques.¹ In general, it seems that what Kant showed in his fourth antinomy, that there is no transcendental being or concept which could make a given course of action or theoretical evaluation necessary, may well apply to the notion of a common interest as fully as it does to the concepts God, Natural Law or Human

Rights. All may be a matter of taste or sentiment.

2.2] For many social scientists and thinkers, especially since the second World War, the concept of "social life" has moved into the position once held by these older concepts, as Sheldon Wolin was at such pains to show, and in effect have become the transcendental argument for many students of modern politics. The development is not new, but its influence is increasing.

The [19th] century endowed society with a status as distinctive as that previously accorded the political order, surrounding it with the affectionate metaphors that another age had reserved for the church, personifying it as the life-force ultimately shaping politics, economic life, and culture. The century had adopted the article of faith that no creation, no object, no thought, no act could be rightfully called "mine." Everything was society's and creativity--art, literature, religion and philosophy--were stripped of mystery and exposed as "expressions" of society. All shades of opinion unanimously agreed that economic production must be analyzed as a social process in which it was impossible to single out the contributions of single individuals. Although it fell to the socialists to exploit this particular line of thought into a justification for the abolition of private ownership, property was merely the most spectacular casualty among privacies of all kinds.²

Wolin's critique obviously follows from that of Hannah Arendt who attacked the "social" as a kind of catchall category within which the "political" was in danger of being submerged and lost forever. But the "political," as Arendt showed, is partly the result of individual skills which must be acquired through experience and are not given to all men equally at birth. Therefore it is necessary to seek criteria for admitting selected individuals to participation in public life or the public space, in order to ensure that all such individuals possess

the capacities needed there and to separate the fit from the unfit. Such distinctions and experiences, she claimed, are needed to make it possible for "political life" to function in such a way that the good of the general order is served and that at least a few individuals develop what Arendt saw as the higher existential potentials that alone are uniquely human. Nowhere does she allege that such a life or course of personal development will ever be available to all. Her critics, naturally, have taken umbrage with the elitism behind this, and attacked her in the name of a theory of social equality ultimately derived from Christianity. In our time, the problem of equality refuses to go away, and its strength may be seen in the unquestioned position that the social has assumed in contemporary analyses of collective life. If Arendt and Wolin are correct about the role that the social has assumed in contemporary political thought, then I think it no great leap to claim that the social has not only succeeded in supplanting participatory politics as an organizing category with which to study collective life in the twentieth century, but it has done so by virtue of being able to insinuate itself into the place where the transcendental argument once stood. In so doing, it serves to remove from collective memory the notion that the full capacities of the individual human person could only be developed by participating with other members of the community in making decisions that would affect them all in common. Yet if we would disparage the erosion and loss of the political and the emergence of the social, we still need either to support our own critique of contemporary politics

with an alternative "transcendental argument," or explain why it is possible to get along without one--while simultaneously maintaining a point of view that is in any way critical of contemporary political practices.

2.3] How might we characterize a clash between contemporary social theory and classical political theory, other than as a difference over transcendental arguments? In former times, such a clash of views would have been labelled "religious" precisely because it is in the nature of such arguments to be based on metaphysical assumptions that are undemonstrable per se, have pretensions to universal validity, and are clasped to the breasts of their respective adherents as a consequence of either a leap of faith or a conversion experience. On this argument, politics in the twentieth century occupies the place that religion held in the sixteenth.

2.4] Bernard Bailyn argues that the American revolutionaries did not really believe in Human Rights--despite what Jefferson wrote in the Declaration of Independence.³

3.0] Let us return to the concept of the "common interest." Suppose it can have no justification beyond the claim that it must be being served if political stability exists. In other words, let us assume that if the common interest is not made the object of attention by the key political actors in a polity, a) that that polity will decay or decline or otherwise come to some kind of a bad end: and b) that those whose interests are habitually not taken into account will make trouble for whoever takes things into account. In making these

assumptions we have Machiavelli with us--though some may see the assumptions as counter-factual, and others may think that I am begging the question. How might we think through the notion "common interest," not qua philosophical concept, but qua possible object of political action?

3.1] My contention throughout this thesis has been that the common good can be served through the melding of a heterogeneity of interests into a synthetic political judgment, arrived at collectively by those whose vital interests are to be affected by that judgment. Hence, the kinds of political decision from which the common good results incorporate a number of elements, and these are heterogeneous both with respect to economic and political power, and with respect to epistemology--i.e., that different existential positions entail different approaches to the same problems. The essence of a political judgment made collectively is a compromise among the various partial views that appear in the decisionmaking process and which together synthesize the manifold of their plurality into a decision. From the standpoint of the individual or of the competing group, it offers but a partial fulfillment of aims.

3.2] It is the easiest thing in the world to see what the common interest is in time of war: it is that interest in surviving as a social and political unit which unites a country at the moment it perceives an external threat. In the foreign policy area, then, vital threats have a way of rapidly inducing a unitary self-consciousness in the polity. But the notion must be applicable to the domestic side

as well, because the state does act in the domestic sphere and because there clearly exist issues and questions which, once decided, will affect the entire society for good or ill.

3.3] Domestic issues are of two sorts. First are those which require measures applicable at all times and in all places throughout the polity. Government regulations of commercial activities provide one example, for the SEC and the FASB lay down rules which everyone to whom they are applicable must follow. Second and more difficult are measures involving the distribution or redistribution of particular goods, or which undertake to provide services either to everyone, or to selected parts of the citizen body. Some distributions come close to being universal. Among these are public transportation, the postal service and environmental regulations. Others are more particular. Defense contracts, AFDC and public universities are examples of the sort of domestically distributed good to which not everyone has access. Hence this kind of good is made available to a subset of the population on the basis of discriminatory criteria in order, we must assume, that all may ultimately benefit. While the examples given here are clear enough, it is the domestic policies of this latter sort that give rise to heated disputes and, in fact, much of the substance of American party politics.

Conflict arises over partial or local grants of goods because local solutions to "general" problems are always discriminatory and can be implemented only through a manifestly unequal distribution of goods and services by the state. It was precisely such activities,

undertaken by the Congress, which Woodrow Wilson saw as lying at the base of the corruption he saw spreading through that body. For Wilson, private interests were being served and public goods were being ignored in the rush for the log roll. Hence the centrality of Arendt's question: where is the dividing line between public and private? Under what conditions might it be shown that "all" benefit when "some" benefit disproportionately? Do we need some kind of transcendental deduction to demonstrate that a given policy decision is really in the common interest, or might an affirmative decision by the elected representatives be sufficient justification for it?

3.4] Here, I think, it is necessary to part company with Hannah Arendt. Her attempt to establish a set of universal criteria through which a public-private distinction might be established is really a reflection of a search for moral standards external to politics from which it might be regulated or judged. Let us go back for a moment to the work of Werner Jaeger upon which it is clear that so much of Arendt's project is based. Jaeger's studies in classical philology led him to insights about the nature of Greek political life which Arendt attempted to apply to the present era. At one point, for example, Jaeger came across the word politeuesthai, which meant "to take part in civic life, or the life of the polis."⁴ What I now think Hannah Arendt did was to read Jaeger and then start with an image of that crowd gathered in the public space. "Public affairs" are those things that concern all and only that crowd. So, on the basis of the image, she attempted to draw the line between public and private.

Since the "public" is separate from the "social," the affairs of social life are none of its business. Now there is a contradiction here: for Arendt, politics takes place in the realm of freedom, that is, after the necessities of life and the issues of survival have been settled for the individual participants. Once in the realm of freedom, they can take up any question whatsoever. But if the assembly is to be free to decide to take up whatever matters it wants to take up, it has to be free theoretically to take up social matters should it so decide. If we don't allow this, then we are left with an assembly that operates in a highly circumscribed realm, and this pushes us back into the search for a transcendent argument to justify the circumscription. If Natural Law can't fill this void, neither can Arendt's image.

3.4.1] Therefore, the assembly itself can be the only ultimate judge of where the line between public and private actually falls and it follows that "the social" realm can be the legitimate object of legislative action. This is consistent with Aristotle, for whom social background conditions partially determine political forms, political spaces and the kinds of activity and substantive decision-making that will go on in such spaces.

3.5] If we can find no transcendent argument or external standard to use in evaluating the actions of an assembly or government, are we forced to give our reluctant approval to anything that a government or an assembly might decide to do? Is the notion of the "common interest" incoherent? Is it impossible to show that a

legislature or polity could ever be mistaken about what its common interest is? Again, let us return to a basic premise: it is possible for a legislature or assembly to make decisions that not only can adversely affect the fortunes of the polity as a whole, but lead to its collapse and destruction. If this is true, it must also be true that it is possible for an assembly or legislature to make decisions which will enhance the strength or vitality of the polity. Acts of such a nature then, whether they be advantageous or the opposite, affect what I am calling the "common good."

3.6] We need to ground the notion of the common good in something specific enough to enable us to distinguish policies that serve the entire polity from those that do not, and at the same time make it possible for a governing assembly to move to ameliorate local calamities when it desires to do so. Suppose that we start with the notion that there exists a "national constituency." This is not an aggregation of partial constituencies, but exists simultaneously with them. It is not necessarily the case that the needs or interests of the national constituency are fulfilled when those of the partial constituencies are met. To take a phrase from the logicians here, to say that "the interests of each have been met" is not the same thing as saying, "the interests of all have been met." While it is not true that denying the interests of each will serve the interests of all, it is no more true that serving the interests of each will serve the interests of all. So, somewhere, the interests of all and the interests of each must diverge. This is why "aggregation" does not

provide an accurate accounting of the kind of collectivity that Aristotle meant to designate with "Koinonia."

3.7] Another approach to determining when a particular policy or distribution of goods may or may not be in the common interest may be found in the inescapability of political conflict about such distributions: i.e., in the adversarial system which is entailed by the notion of a legislature or assembly in which competing interests are brought to bear in the decisionmaking process. The truth-value of assertions that such and such a policy or distribution may or may not be in the common interest can only be settled politically--that is, to the extent that such assertions provide the basis for common action. The truth or falsity of such assertions can never be demonstrated categorically and finally. Hence, to demonstrate that such and such policy is in the common interest requires collective acceptance of the outcome of debates. Acceptance is shown when those to be affected accept policy outcomes without offering further conflict and without needing to be coerced into following them. If political "truths" are those which are actually acted upon, their ultimate justification must lie in the intersubjective process through which their acceptance qua truths is established. Hence the predominance of local treatments of specific problems over the abstract formulations of theory in actual assemblies. Hence also the widespread resentment against "socialisms" and "imperialisms" of all sorts, under which localities chafe when subjected to the uniformity of decisions--and taxes--imposed from afar. If there are not prior restraints discoverable upon the range of poli-

cies which a given assembly might adopt as serving the common or general good, then the only possible check or restraint must be found in the adversarial process itself. Therefore, political truths are not objective, they are intersubjective. That something is wrong with this argument as a defense of the probability that a given assembly will find its way to the common good can be inferred from the career of Alcibiades in the Athenian assembly. By the time the general will had worked its way, the Athenian polis was in shambles.

4.0] Aristotle took it as axiomatic that human societies are divided up into distinct classes and that different classes have different interests. He did not suppose that classes can be abolished. The reader of such historians as Thucydides, Livy, Machiavelli, and Guicciardini is inclined to agree. The notion "class" points out much more than mere economic distinction. It points out differences of life experience, psychological development, attitudes toward others and conceptions of justice. Revolutionary experiences in the twentieth century, which have attempted to do away with class distinctions, seem to have inevitably foundered on elements in the human psyche that are as resistant to change as traumatic experience. With what motives and experiences can the individual be induced to consciously strive to alter the representation he holds in his heart of his primary formative experiences? Such experiences underlie his political views and are the substance of what must be changed if the psychological attitudes which support class distinctions are to be altered on the way to abolishing classes themselves. Some individuals

can be expected to be able to work to change their attitudes. Others can be expected to resist. On balance, there seems to be three things that a society bent upon changing or reforming itself might do with respect to class distinctions: first, the revolutionary group, or if successful, the nouveau regime, can shoot its class enemies. Machiavelli recommended this; Stalin carried it out. Second, the Agents of History might attempt a program of "mental rectification" and seek to use political methods to reform the psyches of those needing to be reformed. Mencius recommended this method and Mao Tse-Tung carried it out. In the latter case a problem arose, however, between the revolutionary moment and the social nirvana: those involved in implementing the mental rectification campaign began to disagree about what changes constituted reform and what changes embodied reactionary assumptions. Therefore, they fell into epistemological heterogeneity over a problem that could not be negotiated or compromised by definition. Meanwhile, the Chinese economy and educational system collapsed about them. So much for "zero-sum" solutions. The third method is to try to effect a compromise between the various classes through political means such that each gains some of the goals it seeks, none attains everything it desires, and institutions are founded such that no class is able to take over the instrumentality of the state and use it to despoil the others. This notion is embodied in the republican tradition.

5.0] The basic idea behind the public space conception of politics is that individuals bearing with them different private and

class interests will gather together in a public place at appointed times and deliberate and compromise among themselves in order to effect policies with respect to those things that affect them all in common. The notion that the participants in such a politics consider an agenda restricted to all and only common problems embodies the assumption that the effective capacities of such a group are somehow related to the extent of its responsibilities: the less it tries to do, the more effective it will be.

5.1] Both theoretical and historical experience have shown that there are two deficiencies in a "pure" public space mode. First, a large assembly is really not an effective way to deal with matters of daily administration and finance. Matters of detail are, it turns out, better left to those who have some familiarity with them, and lengthy assembly debates over "small" concerns amount to a waste of everyone's time. It is better, therefore, to delegate some tasks, either to experts or magistrates, or to leave them to be decided within the localities where they arise as matters of immediate concern. The second fundamental difficulty with a "pure" public space is that it in fact does not always result in policies that are manifestly in the common interest. Majorities can sweep over assembled bodies like whirlwinds, carrying all before them, and by the time the disturbances have died down, policies are in place which might not have been pursued had the atmosphere stayed calm. This is among the effects of rhetoric. Another kind of unexpected consequence of decisionmaking by large gatherings is that it is possible for a group within the

assembly to consistently muster majorities such that minorities are systematically created and their interests ignored.⁵ This is not in the common interest because it tends to divide the polity and speed the institutionalization of divisions which have an interest in changing the form of government itself. The possibility then arises that politics could be supplanted by more violent means of making decisions that affect the generality of society.

5.2] As a consequence of such developments, two patterns of adjustment have historically arisen to comprise the sovereignty of assemblies. First is what I will call a "functional" compromise. Both administration and executive organs have in fact frequently arisen to direct the daily affairs of the city when the assembly held sovereign power. From the Athenian assembly, then, arose not only magistrates but a smaller assembly or boule of 400 men, which met more frequently than the larger body and made decisions with respect to the implementation of policies. The second kind of compromise is the "social" compromise. It is based on the inescapability of contending class interests and the need to contain them in an institutional framework. This seems to have been embodied in the mixed government theory itself: given the existence of opposed classes, each would be given control over some part of the state, but these all would be required to act conjointly when matters of general policy were to be determined. Recall, for example, Machiavelli's suggestion that the Provost, drawn from the popular element, be empowered to veto decisions taken by the aristocratic Signoria.

5.3] The theory of mixed government put forth by Aristotle as the most practical form of government likely to endure for the majority of men in the majority of states, embodies a legislative assembly at its center. In Aristotle's theory, this assembly was to be "soverieign" in four ways. First, in the sense that members of the magistracy were drawn directly from it; second, in the sense that it always had the power to override decisions made by the magistrates; third, by virtue of the fact that the assembly was open to all of the citizens of the polis and hence not only represented but actually embodied those social forces which were the source of legitimate authority in this form of state; fourth, the magistrates were always "temporary" officers, drawn in relays from the general rank of citizens for short terms and required to take their decisions in public or report those decisions directly back to the assembled citizens. At the end of their tenure in office, officials were publicly evaluated and judged by the assembly and held accountable for their acts. If approval was forthcoming, rewards followed. If disapproval was the consensus, jail, ostracism, the seizure of one's property or even a death sentence could ensue.

5.4] The theory of mixed government, then, was an important development in the history of the idea of what properly constitutes a "political compromise." Instead of deliberating, bargaining and ultimately voting an agreement, the citizens attempt to structure a general one into the organizational apparatus of the state itself, dividing power between permanently existing social interests before

the assembly gathers or a particular debate takes place. In practice, the assembly becomes the arena of political action for the "popular" element in the state and the ultimate court of appeal when the various branches are unable to move forward. Sometimes, it is the ultimate source of power or access to magisterial position, but specific applications of the mixed government idea have varied widely as we have seen and are subject to the vagaries of tradition as well as a host of other forces.

5.5] What is important is that a general compromise between classes may be carried by a permanent division of power among several branches of government, rather than hammered out at each particular point in an assembly. In such a case, diverse modes of political procedure are incorporated into the modus vivendi of the state and the imbalances reflected in the outcomes of a given proceeding are compensated through its conflation with the others.

5.6] Whether the ancients were correct in asserting that the mixed government structure would long endure by dividing power among the most important political blocs in a state remains to be seen: a superficial glance at the historical record provides little assurance that republics necessarily last longer than other forms. The Spartan and Venetian oligarchies each enjoyed stability for nearly a thousand years. The Republic of Florence, in which Machiavelli served, lasted from 1494 to 1510.

6.0] The task that confronts those who gather together in the public space can now be outlined. They need to serve the common

interest or national constituency by making collective judgments about political problems that concern them severally. Political truths, as we have seen, are solutions to common problems which are "true" only insofar as they are the results of a political agreement.

6.1] What the public space makes possible is the integration of a heterogeneity of political interests into synthetic judgments through adversarial proceedings that resolve themselves in the process of deciding what is to be done with respect to the general life. If we start by assuming the existence of disagreement, some variant of an adversarial system is entailed by the notion of a legislature or assembly in which legitimately competing interests are brought to bear in the decisionmaking process.

6.2] We have said earlier that political competition arises over the location of the dividing line between "public" interests and "private" concerns--or between the issues that involve the collectivity and the troubles that involve the interests of the individual or group. Another way of formulating this polarity is to ask which issues can be "legitimately" raised in the public arena, or how we go about recognizing norms that express and regulate generalizable interests? It is clear that conflicts of interest arise with respect to possible courses of action by the state. It is also clear that conflicts of interest arise in the sphere of private life. When is it proper that conflicts in the private sphere become the object of attention and decision by those whose activities take place in the public sphere? Which specific conflicts of interest are such that the

form of their disposition will affect what is common or general to the collective?

6.2.1] Let us go back to the Greek notion of koinonia or association. According to Aristotle, there are many kinds of association within a society. First there is the political association of the polis, the virtue of which is justice. In addition, there are numberless less encompassing associations, each with its particular end or raison d'etre. Some are religious, some familial, some are based on commercial activities, some have to do with the locality and the village. Each of these lesser associations is held to be able to deal with those matters that it was formed to deal with. Indeed, its persistence as an association can be seen as a rough indice of its success. Only the political association, properly speaking, is able to deal with the matters common to everyone because only the political association embraces all of the citizens and all of these lesser associations. What the members of the political association have in common is citizenship or membership in the political association itself. This is a specific status, a specific grant of a particular kind of personal power that is conferred upon the individual by the deliberate act of those who have preceeded him to citizenship.

Now the United States is a koinonia of lesser associations. The most important of these are the several states, but there are literally thousands of groups of all kinds which have come into being for a variety of particular purposes. While it is not generally accepted in the U.S. that the government should step in to regulate

the internal affairs of such lesser associations, it has come to be widely held--at least since the New Deal--that the government may legitimately step in to lay down the ground rules for conflict and competition among private associations. By the arguments advanced in (2.2) and (3.5) above, this notion that a government may legitimately regulate the relations between conflicting groups in the private sphere is valid.

6.2.2] From our standpoint, the implementation of such a doctrine would not have been possible without the capacity of Congress to effect internal compromise between competing claims. This acknowledgment of the legitimacy of competing claims had to take place simultaneously in two spheres. First, among the citizenry, who pursued their particular interests to the point of clashing with one another and stopped short of armed struggle; second, within the walls of the Congress itself, where representatives of the various interests came forward and agreed to regulate their several relations.

6.2.3] When the Congress succeeded in mediating between the conflicting claims of opposed interests in the private sphere, it acted in the manner of a classical public space. The common interest was served by confining class and economic conflict to the political realm, and the success of the compromises there achieved was evinced by the subsequent obedience of all parties to the decisions there taken. Clearly, the entire process depended upon acceptance of the legitimacy of opposed claims by each of the parties in the conflict:

The capacity to accept competing claims as legitimate is the

necessary precondition of compromise. Insofar as I view my opponents as morally wrong, compromise becomes appeasement; if my own claims are unjust, I can press them only out of unwarranted self-interest. Tolerance in a society of competing interest groups is precisely the ungrudging acknowledgment of the right of opposed interests to exist and be pursued. This economic conception of tolerance goes quite naturally with the view of human action as motivated by interests rather than principles or norms. It is much easier to accept a compromise between competing interest . . . than between opposed principles which purport to be objectively valid. The genius of American politics is its ability to treat even matters of principle as though they were conflicts of interest. (It has been remarked that the genius of French politics is its ability to treat even conflicts of interest as matters of principle.)⁶

6.3] Given the foregoing considerations, it is easy to see how Sheldon Wolin arrived at the following considerations when he took up the questions of what a "political problem" is:

The importance that interest had assumed in Roman political practice and thought added a new shade of meaning to politics and heightened the distinctive character of political action. The Romans had realized instinctively that the legitimizing of interest not only entailed a limited form of action, a kind of domestic diplomacy, but that the multiplicity of interests presupposed as well the incomplete character of solutions to political issues. If political activity was centered around interests, the attendant problems had to be resolved on the same basis; that is, on the basis of claims that conflicted precisely because each claim had a particularity that set it off from other claims.

'Harmony is very easily obtainable in a state where the interests of all are the same, for discord arises from conflicting interests, where different measures are advantageous to different citizens.'
(Cicero. De Res Publica I, xxxiii, 49.)

The rivalries for power and advantage taught the Romans something else about the odd status of a political problem. The common spectacle of competing groups, each headed by experienced leaders with roughly the same patriotic motives, yet each asserting a different policy for the same problem, could not help but raise questions about the nature of the problem itself. What was it about a political problem that

It may indicate that that which is represented in the United States is undergoing a process of change which shifts the focus of representation away from local districts and to specialized interests which have no geographical base. Perhaps special interests and not districts have been that which is represented in Congress since Wilson's time.

In his Political Representation in England and the Origins of the American Republic, J.R. Pole raises the notion that what has actually been represented in the American Congress has undergone periodic historical change.⁸ Who or what has been "represented" in Congress, i.e., districts, persons, property, interests, or principles? Pole's argument shows that any and all of these have been represented at different moments on this side of the Atlantic.

From Pole's discussion, we can make a number of inferences. First, when we consider the representative function of the Congress we should note that "representation" itself is a complex concept which can designate not only a number of possible relations that might hold between representative and represented--such as the competing doctrines of "virtual" and "actual" representation--but also that the representation may be of either principles or interests. When we look at the contemporary Congress, we find that a variety of principles of justice come forward in the various debates that take place there, and that these are not always correlated with the material interests of various constituent groups. Controversies over abortion and administration policy in Central America are two examples. Both prin-

ciples and interests, then are able to press their claims to power and goods under our present system, and it would be false to claim that either predominates consistently, or that either exhaustively characterizes the system of "representation" as it has evolved in the United States.

The second inference we can draw from Pole is that not only are a multiplicity of kinds of goods represented in Congress, but that they are liable to change over time. Our institutions evolve and change. They embody procedural forms and institutional arrangements that are articulations of compromises and victories about power arrangements. That such arrangements are fundamentally fluid, no student of the Cannon revolt can deny. That they have been in a more or less continuous state of change since the founding of the republic could be demonstrated with the materials I have brought forward on the history of the Congress.

7.2] Given these assertions, I think it not unreasonable to claim that with the reform movements of the 1970s, that which is actually represented in Congress has changed along with the institutional arrangements which embody that representation. The evidence has been discussed in detail, but recall: the rise of the entrepreneurial member, the increase in staff influence, the decline of central leadership in the House on the part of either party, the electoral connection, the bureaucratization of the legislature, and finally the rise of caucus or special interest voting blocs in the House. These represent centrifugal forces. As elements in the poli-

tical equation of power within the House itself, they compound the difficulties inherent in arriving at the synthetic judgment that signifies consensus. Many of these groups, whether they demand something predicated of interests, like the steel lobby, or something predicated of principles such as those who oppose abortion, demand something specific, i.e., they are seeking to attain goods which cannot be compromised. In seeking a political rapprochement with such individuals and groups, the traditional leadership strategies come to nothing: it is no longer possible, in bargaining with them, to propose that they and their opponents alike give up something. What is at stake is zero-sum. Therefore, alternative leadership and floor strategies are called for, and these seem to have been forthcoming. What occurs at present is a new kind of bargaining. "I'll give you what you want, all of what you want, concerning this little affair of yours, but in return, when my turn comes, you must give me all of what I want." Coalitions are built up out of such agreements but note: the resulting Congressional majorities are aggregations predicated of bargains rather than compromises about the attainment of particular goods. They are not the synthetic political of judgments of a koionia.

7.3] As the critics of special-interest legislation and social spending programs have vehemently attested, compromises of the logrolling variety have been all too frequent: bargaining and trade-offs have characterized much legislation since 1974, especially in the spending and taxing areas. Phalanxes of interest groups mobilize

clusters of Congressmen to pass measures which benefit selected portions of the electorate. This is private business. If sufficiently powerful, such clusters need not compromise in order to raise majorities. The problem is that compromise on public or general questions is difficult to attain precisely because such issues divide constituencies, give rise to epistemological heterogeneity, and are controversial. Controversy, as Fiorina pointed out, threatens the re-election chances of representatives and is better avoided.

Nor is this all. The process seems to work in reverse. The capacity of the special interests to provide obstructions to the enactment of broadly-applicable policies has been enhanced by the formation of special caucuses and the emerging independence of individual members. David Price has pointed out a perfectly clear example of the kinds of difficulties which beset members of Congress and its committees alike as they attempt to solve "large" problems which affect different constituencies in different ways:

Opposition to President Carter's welfare reform package came from Agriculture Committee spokesmen who saw replacing food stamps with cash payments as detrimental to farm interests, while many of those working to salvage the bill were mainly concerned with giving hardpressed state and local governments financial relief. Safeguarding district water projects or agricultural commodity programs was often a higher priority of legislators than identifying with the broader fiscal-management and consumer viewpoints that the president adopted. This is not to say that members of Congress are incapable of taking broad-gauged policy initiatives. Indeed, as we shall see below, they are increasingly motivated to gain stature in nationally visible policy areas. Nevertheless, a general tendency exists in Congress to give priority to constituency based interests, to aggregate the demands of groups and constituencies in such a way as to minimize tradeoffs and conflict among them, and thus to

reject or modify presidential proposals that are aimed at redistributive or other "universalistic" objectives. Congress, in Theodore Lowi's phrase, displays a penchant for "distributive" politics.⁹

Whether the influence of special interests is positive with respect to the logroll or negative with respect to obstructionism, the end result is a kind of institutional paralysis of Congress with respect to the general welfare, and this paralysis can be discerned behind the badly-oiled screen of apparent political activity. As individual congressmen become increasingly independent of the party structure and increasingly able to build their own organizations and raise their own money, the sphere of mutual cooperation changes from the attainment of synthetic judgments in a open central arena to shifting networks of power that come into being for the sake of serving specific special interests. The produce of such arrangements constitutes much of contemporary legislation.

7.4] What is the result of such practices? First, Woodrow Wilson's critique continues to be fundamentally valid: the public forum has been replaced by the committee or subcommittee, and all of the expertise and legislative power embodied by these organs does not diminish the fact that the broad, general interest--the "common interest" of the national constituency--is being swept under the carpet and forgotten. Robert Paul Wolff pointed out the consequences for the national constituency:

. . . there are some social ills in America whose causes do not lie in a maldistribution of wealth, and which cannot be cured therefore by the techniques of pluralist politics. For example, America is growing uglier, more dangerous, and less

pleasant a place to live in. . . . The reason is that natural beauty, public order, the cultivation of the arts, are not the special interest of any identifiable social group. Consequently, evils and inadequacies in those areas cannot be remedied by shifting the distribution of wealth and power among existing social groups. To be sure, crime and urban slums hurt the poor more than the rich, the Negro more than the white--but fundamentally they are problems of the society as a whole, not of any particular group. That is to say, they concern the general good, not merely the aggregate of private goods. To deal with such problems, there must be some way of constituting the whole society a genuine group with a group purpose and a conception of the common good. Pluralism rules this out in theory by portraying society as an aggregate of human communities rather than as itself a human community; and it equally rules out a concern for the general good in practice by encouraging a politics of interest-group pressures in which there is no mechanism for the discovery and expression of the common good.¹⁰

7.5] Wolff has the germ of the right idea. What is in order is not to seek a wholesale condemnation of pluralism. In the absence of a transcendental argument, the only test we can discover for the "fairness" of a public policy is that such a policy is fair by definition if none of the parties subject to it find it intolerable. But something is missing. The pluralist solution is insufficient, not in the sense that it is "wrong" but in the sense that it is incomplete. The overwhelming majority of professional students of Congress, beginning with the general advocacy of strong Presidential leadership in the 1960s, but rising to a crescendo of irritation following the 1970s reforms, is that "the broad and general questions are being ignored in our national legislature, while special interests are well served." This sentiment, or its equivalent, appears someplace in the writings of virtually every student of Congress whose work has been incorporated into this study.

7.6] The old Whig word for what now undermines both the practical efficacy and the institutional power of Congress is "disunion." There is good reason to suppose that its underlying basis was strengthened by the 1970s reforms. Let us recall Young's description of the effects of "disunion" upon the Congress during the great national crisis of 1812:

. . . Madison's administration saw the fulfillment of every worst prophecy of the governmental community's structure, its attitudes toward politics and power, and its remoteness from the citizenry. Jefferson's leadership having already collapsed, the Presidency was restored politically to the place defined for it constitutionally and structurally in the community--a position as outsider to, and lacking leadership authority over, the establishment on Capitol Hill. This unifying influence removed, all the divisive forces inherent in the social organization and values of the congressional community were loosed. The party shattered to pieces and Congress could not govern, plunging into factional strife at the very moment of rejecting presidential leadership. Leadership in the nation thus fell to a legislative body whose organization and values rendered it wholly unequipped to lead, and obliged it to follow, a distant and divided citizenry. Policy initiative thus passed to a Congress unable to mobilize itself, much less the populace, for the pursuit of any consistent policy. A nation on the brink of military disaster was thus embarked upon erratic and mutually contradictory courses of action dictated by transitory factional combinations at the seat of government. It was total victory for the principle of government by "separate and rival interests." The Presidency slept; effective power resided nowhere; an anarchy of groups reigned over the nation. As a wise historian put it, "government, in the sense hitherto understood, became impossible."¹¹

7.7] What we want to do, then, is not to throw out pluralism, but to add to it. What we want to do is to try to affect the political climate in the United States such that at least a nascent awareness that something like a "common interest" actually exists here--however incoherent it may appear as a concept. The reason, as

we noted in (3.6) above and as should be amply clear from Young's statement, is that it is possible for Congress to act in such a way that, with regard to specific policy areas, it either weakens or strengthens the nation as a whole.

7.8] There are both easy ways and hard ways to begin to evoke a common sense that there is a common interest and that its needs want attending. The hard way would be to attempt to educate the general populace of the United States to some common apprehension of the concept. The easy way would be to start with the legislators themselves, and to search for means to weaken member dependence upon special interests--particularly in the area of the constant search for financial resources. Reforms could be made in the electoral process, which costs too much and which forces representatives to turn to special interests in order to raise the vast sums for election campaigns as currently constituted. The television industry, for example, could be obliged to carry campaign advertising for free, and the duration of election campaigns shortened as it is in Britain. At the same time, the salaries of representatives could be raised to the level of upper middle management--which they equal in responsibility but not in remuneration. Let's say about \$350,000 per year for a representative and about \$450,000 for a Senator. Given the overhead that the average member must meet, and the competitive pressure which business is able to exert for the services of the talented and the diligent, such increases would be equivalent, I think, to the Greek practice of paying poor citizens for constant attendance at the assembly. Any

businessman will attest that "vast" fortunes cannot be built up from such salaries. Further, with respect to the internal politics of Congress, the hand of the party leadership simply must be strengthened both with respect to control over committee appointments and control over the agenda. The reason for this is that party platforms embody synthetic, if partisan, apprehensions of a multiplicity of interests. Perhaps what all this amounts to is a suggestion that a revival of the notion of virtual representation, if suitably constrained, wouldn't be all bad.

8.0] It is not too late to make one observation about the nature of the power of the member of Congress qua citizen. As members of assemblies which shared in sovereignty, citizens of Florence, Members of Parliament, and those who sat in the State Legislatures during the time of the Whig experiment in America shared as individuals in the power of the institution. While enjoying a privileged social status, their personal power was in part a function of the capacity of the institution as a whole to carry out its aims. Now let us look at the consequences of the rise of the entrepreneurial member, who has his own organization and center of personal power, and the emergence of the special interest group as that which is capable of exerting an exogenous influence on Congress, as it were, and forming Congressional majorities almost without regard to the will of the institution. Do these developments enhance the power of the individual member? The decentralization of power in the chamber in general leads, as we have seen, to increasing Congressional paralysis and a

long-term loss of power from the legislative to the executive branch which now not only initiates policy but is an integral part of the budget and spending process. As a consequence, the locus of governmental agency has moved away from the Congress, even in those areas where the Constitution most firmly stipulated that it remain. Furthermore, the complexity of the contemporary U.S. government has given rise to the "oversight problem"--much discussed in recent literature--which is one way of measuring the inability of Congress to make sure that other agencies of government follow up on the policy initiatives which it lays down or undertakes to finance. When all of these factors are taken together, what happens to the "power" of the individual member? If that power is to any extent dependent upon the capacity of the institution to carry out its collective aims, then that power is diminished as the power of the institution is diminished. If Congress is losing power, so is its membership, and so are its members.

8.1] In many historically prior instantiations of the mixed government form, it was the practice of the Magistracy to propose and the assembly to dispose. That is, the magistrates proposed what policies were to be carried out and the assembly either ratified or vetoed its proposals. The purpose of the Congress, as defined by the Constitution, was to initiate, define and determine domestic policy. Its power to do so was guaranteed by its control over the raising and disbursement of funds. Over the course of its history, however, the U.S. government has so evolved that these powers have ebbed away, in

large part as a result of the inability of the Congress to discipline itself. So once again, as in Greece, Florence, and even the England of George III, we find that the greatest part of contemporary broad based policy initiatives originate in the executive branch rather than in the Congress.

8.2] I have here identified the "public space" with the Congress while realizing that the basic notion need not be restricted to the arena of national politics. Public spaces exist in state legislatures, at political conventions--though without the lawmaking capacity--and in the New England Town Meeting. The reason for trying to equate the public space with the Congress here was to try to maintain continuity with the tradition that gave rise to the idea, and to attempt to define it in such a way as to bind it to the notion of sovereignty. If there is to be any cogency in the claim that "politics" is a specific kind of human activity, and that a limited set of concerns is appropriate to it, then we must be able to support the claim that the political association per se is greater than and different from other, lesser associations. If sovereignty can be attached to the powers of the group meeting in the public space, some effort is saved with respect to what's needed to make the basic distinction between the political and other forms of collective life.

9.0] Is it possible to come to a set of definite conclusions about the nature of Congressional procedures and the powers of the institution? Not unequivocally. Here are some thoughts which occurred to me as I concluded my review of that literature.

9.1] Public space unifies and synthesizes a diversity of interests and views. So does the Federal Budget. But Congress chops the budget up into little pieces, and chops itself up into little pieces, and these pieces decide the public business in public qua pieces, rather than as representatives of the whole. No. That isn't quite accurate. The Committees do represent the body politic in some sense, having been elected to serve in the first place and sent to their respective duties by other elected representatives of the people in the second place. Hence they "represent," but the formula of that representation is different from that of the Congress as a whole. Given this, what, exactly is behind the insistence--which I share with Wilson--that somehow or other, things are qualitatively better when the Whole Congress, qua representatives of the Whole Country get together to decide the fundamental questions?

9.2] How fundamental are the thousands of individual appropriations in the Federal Budget in a given year? Obviously, the authorizing legislation is important, and exists when passed by the majority will of Congress. What is to be settled after that are the amounts to be paid into each account, following an annual review of the performance of the agencies that administer the particular programs and disburse the various funds. So what's the problem? The present procedures of Congress are more or less as Wilson described them in 1885: the public business of the United States is conducted in the Committee rooms of the U.S. Congress. Since nobody can see what they are doing in there, and nobody can understand--unless he happens

to be a lawyer or an accountant--what they are doing in there, their conduct of business and that business itself are not really "public." This means, however, that the United States is not functioning as a representative democracy in the classical sense. I think I'm on the way to making a substantive claim then: the franchise alone is not sufficient to legitimize the conduct of government. Government must be conducted in such a manner that the electorate can see what is going on there.

9.3] What the budget literature shows is that Congress represents a heterogeneity of interests; that Americans generally accept it as legitimate that the general body shall take care of particular interests, because most of the particular interests will be taken care of. This is pluralism, more or less, based on a distributive theory of justice and the supposed premise that the government of the United States is like a gigantic Sears Roebuck Department Store and that every interest group has a revolving charge account. This reduces our politics to the form of our domestic economy--a competition between consumers for the most goods--a Visa Card Politics, if one could bring forward a new category appropriate to the times. Nobody minds everyone else having a high line of credit because everyone has a high line of credit. But this is a delusion: the state is in a fiscal crisis.¹²

9.3] The present system works to blur controversy and hide meaningful choices behind a facade of widely dispensed material goods. Further, by granting every interested party much of what he asks for,

it postpones the day of making hard choices between alternatives. As long as there is enough to go around, the system will be o.k. But now we are entering a new phase: there is no longer "enough" to go around. Some people want guns, some people want butter. The electoral majority does not seem to want the state to grow too large. Difficult choices loom. What puzzles the political theorist in all this is how such a large proportion of the population ever came to take it for granted that the government exists to dispense material goods and soothe them in their time of trouble. Is government like the "nature" of some 18th century Romantics, an Ever Bountiful Nurse, or is it a way of organizing and empowering people to make decisions about matters that concern them severally?

9.4] An elaborate legislative procedure has gradually grown up over a 200 year period, and this has finally replaced the kind of public interaction and struggle that always used to take place in parliaments and assemblies. We hear no more of rhetoric in the chamber and, as I indicated earlier, the last place the professional political scientist goes to learn about Congress is to the floor of Congress. Hence, it seems that our institutions are evolving: the United States government is gradually turning into an elected bureaucracy, or at least a bureaucracy some of the members of which are elected and some appointed. The politics that animates it has moved out of the well of Congress and into hundreds and hundreds of small meeting rooms where the elected and the unelected convene in an atmosphere of mutual equality and debate together and compromise about budget figures for

programs that were instituted at the behest of special interests. In the long run, this is a dangerous form of government, not because some people get excluded as the left holds, but because the broad general questions that vitally affect the United States as a whole are not addressed under this system.

9.5] If I could prove the foregoing conclusively, I would be quite happy. I would feel as though I "Knew" something definite about the nature of the contemporary Congress. Instead, however, as is usually the case in such matters, the preceding judgment is not absolute. It is, as Aristotle has led us to expect, something of the nature of more and less. For example, Congress does manage to raise the broad questions, even though it moves ponderously and may take years to do so. It is finally moving on toxic waste; it passed a nuclear freeze resolution; it is debating trade and tariff barriers with all of the intensity that it did before the Civil War; it has real free-for-alls on the question of Federal budget deficits and the balances between defense and social spending; it is moving toward containing Administration policy in Central America; it is at work on legislation to control and regulate immigration; it is deregulating the banking and other industries.

10.0] Note that Aristotle's concept of a political community as a koinonia embraced the notion of a kind of communitarian synthesis of interests, rather than an aggregation of conflicting aims held together by a circle of power. The koinonia is based upon ethical and political assumptions shared by the community, and it is clear that if

the synthetic acts of the assembly are to have meaning for the whole polis, the notions held in common must go beyond procedure and include the substance of general questions.

10.1] We find that in American society today, a pattern of conflicting ideas about justice itself now comes forward in the public realm. Hence we will encounter logical and political objections to any claim that the outcome of Congressional debates is or could be the kind of synthesis that was traditionally equated with a common interest. But perhaps we have drawn the implications and purposes of the public space somewhat too narrowly: as we have seen, to say that the public space makes the emergence of the common interest possible is not the same thing as saying that every decision taken there will reflect the common interest in substance. Perhaps the common interest is also reflected in the procedures followed there: in bargaining and tradeoffs, as well as in unitary decisions. Hence the reluctance to advocate abandoning pluralism, and the need to add to it.

Altogether, this would make "the common interest" a multiplicity rather than a unity, and include questions of procedure as well as of substance under its rubric. Thus it would emerge as an indeterminate concept, something that could not be defined a priori before the actual debates got under way. Taking the "common interest" as an indeterminate concept which combines substantive as well as procedural matters in a process prone to influence by the best and worst of human impulses, and not as a standard to which political actors might be expected to adhere, leaves the student of politics on firm ground, I think.

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²Wolin, p. 362.

³Bailyn, 1967, pp. 192-198.

⁴Jaeger, I:111-114.

⁵For a discussion of the mathematical relations that cha hold between majorities and minorities, see G.E.M. Anscombe, "On Frustration fo the Majority by Fulfillment of the Majority's Will," In: G.E.M. Anscombe, Collected Philosophical Papers, Volume 3, Ethics, Religion, and Politics, (Minneapolis: Univ. of Minnesota Press, 1981), pp. 123-129.

⁶Robert Paul Wolff, The Poverty of Liberalism, (Boston: Beacon Press, 1968), pp. 136-137.

⁷Wolin, p. 87.

⁸Pole, 1966, p. 517.

⁹David E. Price, p. 157.

¹⁰Wolff, p. 159.

¹¹Young, pp. 185-186.

¹²O'Connor.

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